

FAO No.574 of 2015 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-:-

FAO No.574 of 2015 (O&M)

Reserved on 05.07.2022

Date of Decision : 13.07.2022

Gyarsi Devi and Another

...Appellants

versus

Pukhraj Singh Rawat and Others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.D.Yadav, Advocate for the appellants.

Mr. Punit Jain, Advocate for respondent No.3-Ins. Co.

ALKA SARIN, J.

The present appeal has been preferred by the claimants against the award dated 28.12.2014 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal') awarding compensation to the tune of Rs.4,71,800/- on account of death of Laxman in a vehicular accident along with 7.5% interest from the date of filing of the petition till actual realization.

The brief facts relevant to the present *lis* are that on 30.12.2012 Laxman (deceased) was returning to his village on his motor cycle bearing registration No.HR36-K/4588, which was being driven by him at moderate speed and on the correct side of the road. At about 06:30 PM when he reached near the under construction bridge in the area of Neemrana, a trailer bearing registration No.RJ09-GB/0397, which was being driven in a rash and negligent manner, came from behind and struck the motor-cycle as

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a result of which Laxman (deceased) fell on the road and was crushed under the wheels of the trailer thus resulting in his death at the spot. FIR No.336 under sections 279 and 304-A IPC was registered on 31.12.2012 at Police Station Neemrana (Rajasthan) on the statement of Om Narayana, the father of the deceased. On the basis of the pleadings and the evidence on the record, the Tribunal awarded an amount of Rs.4,71,800/-.

The learned counsel for the appellants would contend that the deceased in the present case was 25 years of age and was a Bachelor. The income of the deceased was assessed on the basis of minimum wages as Rs.5200/- pm and the following compensation was awarded :

Income Per Month	Rs.5200/-
Annual Income	Rs.62400/- (Rs.5200x12)
Deduction 50% towards personal expenses	Rs.31,200/-
Multiplier of 14	Rs.4,36,800/- (Rs.31200x14)
Loss of Estate	Rs.10,000/-
Funeral Expenses	Rs.25,000/-
Total Compensation	Rs.4,71,800/-

Learned counsel would contend that no amount has been granted towards future prospectus and towards filial consortium to the parents. Learned counsel for the appellants has further argued that instead of a multiplier of 18, a multiplier of 14 has been applied. It has further been argued that only 40% of the awarded amount has been permitted to be withdrawn and the remaining 60% has been directed to be split in three portions; one which shall be invested in the shape of Fixed Deposit in a

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nationalised bank for a period one year; second portion for two years and so on for a period of three years. The learned counsel would contend that the appellants are majors and require the amount for their day to day expenses.

Per contra, learned counsel for the respondent-Insurance Company has stated that a just amount has been awarded and there was no scope for enhancement.

Heard.

In the present case the factum of the accident is not in dispute. The only issue in the present appeal is qua the quantum of compensation awarded to the parents of the deceased. The Tribunal while awarding the compensation assessed the monthly income of the deceased as Rs.5200/-. A deduction of 50% was applied since the deceased was a Bachelor. However, a multiplier of 14 was applied instead of 18 and no amount was granted towards future prospectus. No amount has also been granted towards filial consortium. The award passed by the Tribunal is not in consonance with the law laid by the Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009(6) SCC 121]**; **National Insurance Co. Ltd. Vs. Pranay Sethi & Ors. [2017(16) SCC 680]** and **Magma General Insurance Co. Ltd Vs. Nanu Ram alias Chuhru Ram & Ors. [(2018)18 SCC 130]**. In view of the settled law, the appellants-claimants would be entitled to the enhanced compensation and a 10% increase under the conventional head as well as under the head consortium as per the law laid down in **N.Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**. The modified compensation is worked out as under :

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Income Per Month	Rs.5200/-
Annual Income	Rs.62,400/- (Rs.5200x12)
Deduction 50% towards personal expenses	Rs.31,200/-
Future Prospects @ 40%	Rs.43,680/- (Rs.31200+Rs.12480)
Multiplier of 18	Rs.7,86,240/- (Rs.43680x18)
Loss of Estate	Rs.16,500/-
Funeral Expenses	Rs.16,500/-
Loss of Consortium (Parental consortium)	Rs.88,000/- (44000x2)
Total Compensation	Rs.9,07,240/-

In view of the above the award dated 28.10.2014 is modified.

The appellants would be entitled to a compensation of Rs.4,35,440/- along with 7.5% interest over and above the amount granted by the Tribunal i.e. Rs.4,71,800/-. The enhanced amount shall carry interest @ 7.5% from the date of filing of the petition till date of realization. The condition imposed by the Tribunal of permitting only 40% of the amount to be withdrawn is also modified and the entire amount of compensation shall be paid to the appellants as noted above.

The appeal is allowed accordingly, award of the tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

13.07.2022
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(ALKA SARIN)
JUDGE

Whether speaking/non-speaking : Speaking
Whether Reportable : Yes/No