

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

251

FAO-546-2016 (O&M)
Date of decision: 05.12.2022

Santosh and others

.....Appellants

Versus

Kanwal Deep Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Saurabh Dalal, Advocate
for the appellants.

Mr. Suvir Dewan, Advcoate
for respondent No.2-insurance company.

MANJARI NEHRU KAUL, J. (ORAL)

CM-1570-CII-2016

For the reasons mentioned in the application, the same is allowed and delay of 36 days in filing the appeal is condoned.

FAO-546-2016

The claimants are in appeal before this Court against the award dated 12.08.2015 passed by learned Motor Accidents Claims Tribunal, Jhajjar (for short, 'the Tribunal') wherein the following compensation was awarded to them on account of death of Rajbir Singh (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 30.04.2014:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.6,950/-
2.	Annual loss of dependency after 2/3 rd towards personal expenses	Rs.51,998.40P
3.	Compensation after applying multiplier of '9'	Rs.4,67,985.60P
4.	Funeral expenses	Rs.25,000/-

5.	Loss of love and affection	Rs.25,000/-
6.	Loss of consortium to claimant No.1	Rs.25,000/-
	Total Compensation	Rs.5,42,985.60 P

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 7.5% per annum, from the date of filing of petition till realization.

Learned counsel appearing for the appellants claimants has vehemently argued that the claimants who are widow and two children of the deceased, (who was 58 years of age) on the date of accident in question, had been awarded inadequate compensation, which was not in consonance with the settled ratio of law as laid in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121 and National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270.*** While inviting the attention of this Court to the compensation awarded, it has been firstly urged that the Tribunal had erred in applying deduction of 2/3rd instead of 1/4th keeping in view the number of dependents left behind by the deceased. It has been further submitted that the claimants were entitled for being compensated for loss of consortium (spousal and parental) in the sum of Rs.40,000/- each, however, the Tribunal had awarded a meagre sum of Rs.25,000/- only. It has been next submitted that even under the other conventional heads including future prospects the compensation awarded required to be reassessed and modified accordingly as it was contrary to the settled law.

Learned counsel appearing for respondent No.3-insurance

company has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that the compensation awarded was just and adequate which did not warrant any interference.

I have heard learned counsel and perused the relevant material on record.

This Court finds merit in the submissions made by the learned counsel for the claimants. Since the deceased was a pensioner, aged 58 years, the Tribunal ought to have added 15% towards future prospects. Still further, personal deductions should have been assessed at 1/4th instead of 2/3rd, keeping in view the number of dependents which in the case in hand, admittedly are three in number. The Hon'ble Supreme Court in ***Pranay Sethi's case*** (*supra*) has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- each for loss of consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement *qua* the above-mentioned conventional heads as per the ratio laid down in ***Pranay Sethi's case*** (*supra*). Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are widow and two children of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.6,950/-
2.	Annual Income	Rs.6,950/- x 12 = Rs.83,400/-
3.	Future prospects (15%)	Rs.83,400/- x 15% = Rs.12,510/-
4.	Total annual income	Rs.83,400/- + Rs.12,510/- = Rs.95,910/-
5.	Deductions towards personal expenses (1/4 th)	Rs.95,910/- (/) 4 = Rs.23,977/-
6.	Loss of annual future earnings	Rs.95,910/- (-) Rs.23,977/- = Rs.71,933/-
7.	Multiplier	9
8.	Loss of future earnings	Rs.71,933/- x 17 = Rs.6,47,397/-
9.	Loss of consortium	Rs.44,000/- x 3 = Rs.1,32,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.8,12,397/- (rounded off to Rs.8,12,400/-)

The claimants are, therefore, held entitled to a total sum of Rs.8,12,400/- as compensation along with interest @ 7.5% per annum from the date of filing of claim petition till its actual realization, which shall be paid by the respondents jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, the present appeal stands disposed of in the above terms.

05.12.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No