

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

FAO-6278-2016 (O&M)

Date of decision : 31.08.2022

Amritpal Kaur and Ors

... Appellant(s)

Versus

Jag Parshad and Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kapish Singla, Advocate for
Mr. Ashit Malik, Advocate for the appellants.

Mr. Sunny Tyagi, Advocate for respondent No.2.

Mr. Sachin Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-21179-CIL-2016

This is an application for condonation of delay of 3 days in filing the appeal.

For the reasons stated in the application, delay of 3 days in filing the appeal is condoned.

CM stands disposed off.

MAIN CASE

The present appeal has been preferred by the claimants against the award dated 04.05.2016 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as the 'Tribunal').

The facts in the present case are not in dispute and, hence, are not being reproduced for the sake of brevity.

Learned counsel for the appellants would contend that the income of the deceased has been assessed as Rs.4848/- per month as per the minimum wages prevalent as on 01.01.2012. However, the accident took place on 16.07.2012 and the prevalent minimum wages for an unskilled labourer at the relevant time was Rs.4967/- per month. Learned counsel for the appellants has fairly stated that future prospects had been awarded @ 50% which should be 40%. It is further the contention of learned counsel that dependency has been taken as $\frac{1}{3}^{\text{rd}}$, however, the same should be $\frac{1}{4}^{\text{th}}$ keeping in view the fact that there are 5 dependents. Learned counsel for the appellants would further contend that a wrong multiplier has been applied inasmuch as multiplier of 15 has been applied instead of applying a multiplier 16 as per the judgment in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**. Learned counsel has further fairly conceded that though an amount of Rs.3,00,000/- has been awarded under the head of love and affection, however, as per the settled law in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Chola mandalam M.S General Insurance Company Ltd. [2021 (4) RCR (Civil) 642]**, an amount of Rs.44,000/- would be payable to each of the claimants (the appellants and respondent Nos.4 and 5).

Per contra, learned counsel for the respondents would contend that future prospects awarded are on the higher side as is the amount

awarded under the head of love and affection and there is no scope for any enhancement in the present case.

I have heard the learned counsel for the parties.

The Tribunal on the basis of the pleadings and evidence on the record had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.4848/-
2	Annual income of the deceased	Rs.58176/- (4848x12)
3	Annual income after 1/3 rd deduction towards personal expenses	Rs.38784/- (58176-19392)
4	Future Prospects @ 50%	Rs.58176/- (38784+19392)
5	Multiplier 15	Rs.8,72,640/-(58176x15)
6	Loss of love and affection	Rs.3,00,000/-
7	Funeral Expenses	Rs.25,000/-
	Total Compensation	Rs.11,97,640/-
	Interest	9% per annum

As per the settled law in the cases of **Pranay Sethi** (supra), **Sarla Verma** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), since the age of the deceased was 35 years, future prospects ought to have been calculated @ 40% instead of 50% and the dependency ought to have been taken as 1/4th instead of 1/3rd. Further, the multiplier of 16 ought to have been applied instead of 15. The consortium awarded under the head of love and affection is in excess of the amount as per the settled law. Hence, the claimants would also be entitled to an amount of Rs.44,000/- each under the head consortium.

In view of the settled law the modified compensation is re-worked out as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.4967/-
2	Annual Income of the deceased	Rs.59604/- (4967x12)
3	Annual dependency of the claimants after deduction of 1/4 th	Rs.44703/- (59604-14901)
4	Future Prospects @ 40%	Rs.62584/- (44703+17881)
5	Multiplier of 16	Rs.10,01,344/- (62584x16)
6	<u>Loss of Consortium</u> (i) Parental (ii) Filial (iii) Spousal	Rs.88,000/- (44000x2) Rs.88,000/- (44000x2) Rs.44000/-
7	Loss of Estate	Rs.16500/-
8	Funeral Expenses	Rs.16500/-
	Total Compensation	Rs.12,54,344/-
	Amount Awarded by the Tribunal	Rs.11,97,640/-
	Enhanced amount	Rs.56,704/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% from the date of the filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimants as directed by the Tribunal.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

31.08.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO