

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

239

FAO-6079-2017

Date of decision: 01.04.2022

Parkashi Devi and others

.....Appellants

Versus

Ajay Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajesh Bansal, Advocate
for the appellants.

Mr. Mayank Gupta, Advocate
for respondent No.5-Insurance Company.

MANJARI NEHRU KAUL, J. (ORAL)

The appellants-claimants (widow and two sons of deceased Bal Kishan) have come up in appeal seeking enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Jind (hereinafter called as 'the Tribunal') vide award dated 16.02.2017 on account of death of Bal Kishan, who died in a road side accident on 25.10.2015.

As per the pleaded case on 25.10.2015, the deceased Bal Kishan along with his son Vijay Pal boarded the offending vehicle i.e. bus bearing registration No.HR-56A-7473 from Kheti Talok for Safidon. While the deceased and his son were alighting from the bus, the bus driver i.e. respondent No.1 started the bus as a result of which the deceased fell down on the road and the bus ran over him leading to his instant death at the spot. The Tribunal awarded compensation in the sum of Rs.4,61,000/- along with interest at the rate of 7.5 % per annum to the appellants-claimants as under:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.6,000/-
2.	Annual Income	Rs.6,000x12 = Rs.72,000/-
3.	Deduction (1/3rd)	Rs.24,000/-
4.	Annual Dependency	Rs.72,000-Rs.24,000=Rs.48,000/-
5.	Multiplier	7
6.	Total Dependency	Rs.48,000x7=Rs.3,36,000/-
7.	Consortium	Rs.1,00,000/-
8.	Funeral and Transportation Expenses	Rs.25,000/-
9.	Total Compensation (6+7+8)	Rs.4,61,000/-

Learned counsel for the appellants have challenged the impugned award on the following grounds:-

(i) That the deceased was 60 years of age, however, the multiplier of '7' was applied instead of '9' in contravention of the settled law in *Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*.

(ii) That the income of the deceased assessed at Rs.6,000/- per month required to be reassessed as the deceased was running a dairy and earning approximately Rs.15,000/- per month.

(iii) That the appellants-claimants were also entitled to future prospects @ 10% in view of the settled law as laid down by the Hon'ble Apex Court in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270* and *Civil Appeal No.9581 of 2018 titled as 'Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram' decided on 18.09.2018*.

(iv) That under the conventional heads also, the amount of compensation awarded was meager and against the settled law.

On the other hand, learned counsel appearing for the

insurance company while opposing the submissions made by the counsel opposite submitted that no proof of income was produced before the Tribunal and hence the amount of Rs.6,000/- per month was rightly assessed as income of the deceased by taking him to be an unskilled worker. Learned counsel, however, conceded that the multiplier of '7' had been erroneously applied instead of '9'. It was also conceded by the learned counsel that as far as future prospects are concerned, the appellants-claimants were entitled to 10% as towards future prospects.

After hearing learned counsel for the parties and on perusing the case file, this Court concurs with the submissions made by the learned counsel for the appellants that the compensation awarded requires reassessment as per the settled law in ***Pranay Sethi's case (supra)***; ***United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others : 2020(3) RCR (Civil) 75***; ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344***.

The age of the deceased being 60 years the multiplier of '9' should have been applied instead of '7' as per ***Sarla Verma's case (supra)***. Since the deceased was self-employed, the claimant are also entitled to be granted 10% of his income towards future prospects.

It would also be relevant to notice that 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 and Rs.40,000/- as loss of consortium. Still further, it has

been held that the aforesaid amounts would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement qua compensation under conventional heads, as was also held and reassessed by Hon'ble Supreme Court in *Rasmita Biswal's case (supra)* in consonance with 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, funeral expenses respectively and Rs.44,000/- loss of consortium.

This Court, however, does not find any merit in the submissions made by the counsel for the appellants qua the monthly income of the deceased having been assessed on the lower side. As no proof of income was produced before the Tribunal by the appellants-claimants, the income assessed at Rs.6,000/- per month by taking the deceased as unskilled worker and as per the minimum wages notified by the Government of Haryana for the relevant period, cannot be faulted with.

Resultantly, the compensation is re-assessed as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.6,000/-
2.	Annual Income	Rs.6,000x12=Rs.72,000/-
3.	Future Prospects (10%)	Rs.72,000x10%=Rs.7,200/-
4.	Total Annual Income	Rs.79,200/-
5.	Deduction towards personal expenses (1/3)	Rs.26,400/-
6.	Annual Dependency	Rs.52,800/-
7.	Multiplier	9
8.	Total Dependency	Rs.52,800x9=Rs.4,75,200/-

9.	Spousal consortium to wife and parental consortium to two sons of the deceased	Rs.44,000/- each i.e. Rs.1,32,000/-
10.	Funeral Expenses	Rs.16,500/-
11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation (8+9+10+11)	Rs.6,40,200/-

The appellants-claimants are therefore, held entitled to a total of Rs.6,40,200/- as compensation along with interest @ 9% per annum from the date of filing of petition till its actual realization, which shall be jointly and severally paid in the same ratio as directed by the learned Tribunal.

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

01.04.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No