IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5509 of 2018 (O&M)
Date of Decision : 22.04.2022

Sarla Devi and Others ....Appellants

VERSUS

Rakesh and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Neeraj Yadav, Advocate for the appellants.

Mr. Ravinder Arora, Advocate for respondent no.3

ALKA SARIN, J.

CM-18602-CII-2018

This is an application under Section 5 of the Limitation Act, 1963 for condonation of delay of 23 days in filing the present appeal.

For the reasons stated in the application, the same is allowed. The delay of 23 days in filing the present appeal is condoned.

FAO-5509-2018

This is a claimants' appeal against the award dated 12.01.2018 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal') whereby the claimant-appellants have been awarded compensation of ₹13,30,000/- along with interest @ 7.5% per annum from the date of filing the claim petition till realization on account of death of Dharampal.

The brief facts relevant to the present case are that on 14.01.2017 Dharampal along with Sanjay Kumar was going to his house on foot from the side of Bus Stand, Narnaul. At around 11.15 pm when they reached near graveyard on the Narnaul-Rewari Road, a truck bearing

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registration number RJ-14GC-4799 being driven in a rash and negligent manner, at high speed, came from the opposite side and hit Dharampal as a result of which he sustained multiple and grievous injuries leading to his death.

The claimants preferred a claim petition claiming compensation of ₹80,00,000/- on account of the death of Dharampal. It was claimed that Dharampal was working as a Cook and was earning ₹20,000/- per month. All the respondents appeared before the Tribunal and contested the claim petition.

On the basis of the pleadings of the parties and the evidence produced, the following compensation was awarded by the Tribunal :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	₹8000/-
2	Annual income of the deceased	₹96,000/- (8000x12)
3	Annual income after ¼ deduction towards personal expenses	₹72,000/- (96000-24000)
4	Addition of 25% of ₹72000/- on account of future prospects	₹18,000/-
5	Total income of the deceased	₹90,000 (72000+18000)
6	Multiplier	14
7	Amount of compensation	₹12,60,000/- (90000x14)
8	Loss of estate	₹15,000/-
9	Funeral expenses	₹15,000/-
10	Loss of consortium (spousal)	₹40,000/-
	Grand Total	₹13,30,000/-

All the respondents were held jointly and severally liable to pay the compensation.

The learned counsel for the claimant-appellants has raised two short submissions for enhancement of the compensation awarded. He

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contended that no amount has been awarded towards Parental Consortium as per the judgment of the Supreme Court in the case of **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [2018(18) SCC 130]**. He has further relied upon judgment by Hon'ble Supreme Court in **N. Jayasree & Ors. vs. Cholamandalam MS General Insurance Company Ltd. [2021(4) RCR (Civil) 642]** to contend that the claimants would be entitled to a 10% increase on the amounts under the conventional heads as laid down in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 Supreme Court Cases 680]**.

Per contra, learned counsel appearing on behalf of the Insurance Company has stated that the compensation awarded by the Tribunal is sufficient and there is no scope for further enhancement.

I have heard learned counsel for the parties.

In the present case the deceased was 45 years of age. As per the law laid down in the case of **Magma General Insurance Company Ltd.** *(supra)* no amount has been awarded towards Parental Consortium. Further, as per the law laid down in **Pranay Sethi's** case *(supra)*, which is reiterated in **N. Jayasree's** case *(supra)*, the claimants would also be entitled to 10% increase under the conventional heads.

In view of the above, the following compensation is allowed to the claimants :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	₹8000/-
2	Annual income of the deceased	₹96,000/- (8000x12)
3	Annual income after ¼ deduction towards personal expenses	₹72,000/- (96000-24000)

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4	Addition of 25% of ₹72000/- on account of future prospects	₹18,000/-
5	Total income of the deceased	₹90,000 (72000+18000)
6	Multiplier	14
7	Amount of compensation	₹12,60,000/- (90000x14)
8	Loss of estate	₹16,500/-
9	Funeral expenses	₹16,500/-
10	Loss of consortium Spousal : ₹44000/- Parental : ₹176000/- (44000x4)	₹2,20,000/-
	Grand Total	₹15,13,000/-

The amount in excess over what has already been awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of the award till the realization of the entire amount. The amount shall be apportioned between the claimants as directed by the Tribunal viz. 60% to the widow and 40% to the children of the deceased and shall be released for their utilization.

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

(ALKA SARIN)
JUDGE

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Yogesh Sharma

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

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