

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

301

FAO-4773-2018 (O&M)
Date of decision: 30.11.2022

Seema and others

.....Appellants

Versus

Jai Kavar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Bhupander Ghanghas, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3-insurance company.

MANJARI NEHRU KAUL, J. (ORAL)

CM-15914-CII-2018 and CM-15915-CII-2018

For the reasons mentioned in the applications, the same are allowed and delay of 154 days in re-filing and 155 days in filing the appeal is condoned.

FAO-4773-2018 (O&M)

The claimants are in appeal against the award dated 22.09.2016 passed by learned Motor Accidents Claims Tribunal, Sonipat (for short, 'the Tribunal') wherein the following compensation was awarded to them on account of the death of their mother Beero (hereinafter referred to as 'the deceased') aged 51 years, in a motor vehicular accident which took place on 20.04.2015 :-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.4,500/-
2.	Annual Income	Rs.54,000/-
3.	Dependency after applying multiplier of '11'	Rs.5,94,000/-
4.	Funeral expenses	Rs.25,000/-
	Total Compensation	Rs.6,19,000/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants in equal shares, along with interest @ 9% per annum, from the date of filing of the petition till the date of realization.

Learned counsel for the claimants has vehemently argued that the compensation awarded to them was not in consonance with the settled law as laid down in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333* and *Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*. It was submitted that the deceased was a home maker and hence her income which was assessed in the sum of Rs.4,500/- per month was inadequate. It was submitted that the Tribunal had ignored the factum of the multifarious role which the deceased had been playing as a home maker and thus she should have been treated as a skilled worker and her income assessed accordingly. It has also been further submitted that the claimants had not even been compensated for loss of consortium and still further no deductions towards personal expenses had been made while assessing the compensation. Learned counsel has still further submitted that even under the conventional heads the compensation required to be reassessed and enhanced accordingly.

Per contra, learned counsel for the respondent-insurance company has opposed the prayer and submissions made by the counsel opposite and urged that the impugned award did not warrant any interference as the deceased had been rightly treated as an unskilled worker while assessing her monthly income. Learned counsel was not

able to controvert the submissions made by the counsel opposite that the claimants were required to be compensated for loss of parental consortium and also deductions to the extent of 1/3rd was required to be made towards personal expenses as per settled law.

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

Since the deceased was 51 years old home maker, she ought to have been treated as a skilled worker on account of the multifarious roles she would have been naturally playing in her home. Since the accident in question occurred on 20.04.2015, this Court has no hesitation in taking the monthly income of the deceased at Rs.9,000/- per month as against Rs.4,500/- taken by the Tribunal. The Tribunal erred in not deducting personal expenses to the extent of 1/3rd of the deceased. The claimants are also further held entitled to compensation to the extent of 10% towards future prospects. 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/- 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 children of the deceased, are entitled to Rs.44,000/- each, for loss of

parental consortium.

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

Sr. No.	Head	Amount
1.	Monthly Income	Rs.9,000/-
2.	Annual Income	Rs.9,000/- x 12 = Rs.1,08,000/-
3.	Future prospects (10%)	Rs.1,08,000/- x 10% = Rs.10,800/-
4.	Total annual income	Rs.1,08,000/- + Rs.10,800/- = Rs.1,18,800/-
5.	Deductions towards personal expenses (1/3 rd)	Rs.1,18,800/- (/) 3 = Rs.39,600/-
6.	Loss of annual future earnings	Rs.1,18,800/- (-) Rs.39,600/- = Rs.79,200/-
7.	Multiplier	11
8.	Loss of future earnings	Rs.79,200/- x 11 = Rs.8,71,200/-
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.10,36,200/-

The claimants are, therefore, held entitled to a total sum of Rs.10,36,200/- as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents No.1 to 3 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.

30.11.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

Whether reportable

: :
: :

Yes/No
Yes/No