

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R-638

FAO No.1670 of 2003

Date of Decision : 24.03.2023

Kiran Devi and Others

....Appellants

VERSUS

State of Punjab and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Neha Jain, Advocate for
Mr. K.S. Dadwal, Advocate for the appellants.

Mr. Kunal Muthreja, AAG Punjab for the respondents.

ALKA SARIN, J. (Oral)

The only challenge in the present appeal is to the quantum of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal') vide award dated 04.12.2002 whereby an amount of Rs.13,54,400/- was awarded to the claimant-appellants on account of death of Satish Kumar Sharma (hereinafter referred to as the 'deceased'). Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

Learned counsel for the claimant-appellants would contend that the salary of the deceased has been assessed as Rs.10,000/-. However, as per salary slip (Ex.P3), the last drawn salary of the deceased was Rs.10,869/- per month. It is further the contention that in the present case there were four claimants and hence the dependency ought to have been taken as 1/4th instead of 1/3rd. It is further the contention that towards loss of future prospects, an amount of Rs.1,00,000/- has been awarded, however, as per the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, an addition of 50%

ought to have been made towards loss of future prospects. Learned counsel for the claimant-appellant has fairly conceded that instead of applying the multiplier of ‘15’ the Tribunal has applied the multiplier of ‘16’. It has further been argued that no amount has been awarded under the conventional heads i.e. towards loss of estate and funeral expenses as well as under the head of loss of consortium as per the law laid down by the Hon’ble Supreme Court in the cases of **Pranay Sethi (supra), Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

Per contra learned counsel for the respondents-State has contended that the deceased was 38 years of age and the Tribunal has wrongly applied the multiplier of ‘16’ instead of ‘15’. It is further contended that sufficient amount of compensation has been awarded to the claimant-appellants and there is no scope of any enhancement.

In the present case the Tribunal has awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.10,000/-
2	Lump sum deduction of Rs.3300/- towards personal expenses of the deceased	[10,000-3,300] =Rs.6,700/-
3	Annual income	Rs.78,400/-
4	Multiplier of 16	[78,400 x 16] = Rs.12,54,400/-
5	Towards Future Prospects	Rs.1,00,000/-
	Total Compensation	Rs.13,54,400/-
	Interest	9% per annum

I have heard learned counsel for the parties.

In the present case, the income of the deceased has been assessed as Rs.10,000/- per month. However, as per the salary slip (Ex.P3) the income of the deceased was Rs.10,869/- per month. There is no reason to disbelieve the salary slip as the same was issued by the office of Director General of Police, Punjab. Income of the deceased being Sub-Inspector, is accordingly assessed at Rs.10,869/- per month. As per the law laid down in the case of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (3) RCR (Civil) 77]**, the deduction of 1/4th ought to have been made keeping in view the number of the claimants in the present case. Further, a lump sum amount of Rs.1,00,000/- has been awarded towards loss of future prospects whereas an addition of 50% ought to have been made as per the law laid down in the case of **Pranay Sethi (supra)**. The Tribunal has wrongly applied the multiplier of ‘16’ which as per the law laid down in the case of **Sarla Verma (supra)**, keeping in view the age of the deceased, ought to have been ‘15’. Further, no amount has been awarded under the conventional heads as well as under the head of loss of consortium. The claimant-appellants would thus also be entitled to compensation under the conventional heads as well as towards loss of consortium as per the settled law in the cases of **Magma General Insurance Company Limited (supra)** and **N. Jayasree (supra)**.

In view of the above, the enhanced amount of compensation to which the claimant-appellants are held entitled to is re-calculated as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.10,869/-
2	Annual income	[10,869 x 12] =Rs.1,30,428/-
3	Deduction 1/4 th	[1,30,428-32,607] =Rs.97,821/-
4	Future prospects @ 50%	[97,821+48,911] = Rs.1,46,732/-
5	Multiplier of 15	[1,46,732x15] = Rs.22,00,980/-

6	Loss of estate	Rs.16,500/-
7	Funeral expenses	Rs.16,500/-
8	Loss of Consortium : (i) Parental (2) (ii) Filial (mother) (iii) Spousal's	Rs.88,000/- (44,000 x 2) Rs.44,000/- Rs.44,000/- (Total Rs.1,76,000/-)
9	Total Compensation	Rs.24,09,980/-
	Amount Awarded by the Tribunal	Rs.13,54,400/-
	Enhanced amount	Rs.10,55,580/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned amongst the claimant-appellants as directed by the Tribunal. However, the amount be released to the claimant-appellants forthwith as the claimant-appellant Nos.2 and 3 have since attained majority.

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.

24.03.2023
jk

(ALKA SARIN)
JUDGE

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