

300

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1470-2019 (O&M)
Date of decision : 14.03.2023

Saroj Rani and Others ... Appellant(s)

Versus

Babla Ram and Others ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashish Singh, Advocate for
Mr. Ashwani Arora, Advocate for the appellants.

Mr. Mohit Shukla, Advocate for respondent No.1.

Mr. Suman Jain, Advocate and
Mr. Rishabh Jain, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-4573-CII-2019

This is an application for condonation of delay of 210 days in
refiling the appeal.

For the reasons stated in the application, delay of 210 days in
refiling the appeal is condoned.

CM stands disposed off.

CM-4574-CII-2019

This is an application for condonation of delay of 390 days in
filing the appeal.

For the reasons stated in the application, delay of 390 days in

FAO-1470-2019 (O&M)

-2-

filing the appeal is condoned. However, the claimant-appellants shall not be entitled to interest for the period of delay.

CM stands disposed off.

FAO-1470-2019

The present appeal has been preferred by the claimant-appellants challenging the award dated 11.07.2015 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal') aggrieved by the quantum of compensation which has been awarded.

Learned counsel for the claimant-appellants would contend that the deceased in the present case was 40 years of age at the time of the accident i.e. on 18.08.2015 and was working as a Mason and earning an amount of Rs.15,000/- per month. Learned counsel has further relied upon the statement of CW3 - Tehal Singh - wherein he had submitted that the deceased was working as a skilled Mason and was getting contracts of construction of commercial and residential buildings and was earning Rs.15,000/- per month. It is further the contention of learned counsel that no amount has been awarded towards future prospects though a multiplier of '15' has rightly been applied and a deduction of 1/5th has also rightly been made by the Tribunal keeping in view the fact that there are 7 claimants in the present case. It is further contended that the amounts awarded under the conventional heads and under the head consortium are on the lower side and not in consonance with the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Company Limited Vs. Pranay Sethi & Ors.**

Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130] and N. Jayasree & Ors. Vs. Cholamandalam MS General Ins. Co. Ltd. [2021 ACJ 2685].

Per contra, learned counsel for respondent No.3-Insurance Company has contended that the amount awarded is already on the higher side and there is no scope for any enhancement. Learned counsel for the respondent No.3-Insurance Company has further contended that there is no evidence on the record to show that the deceased was earning Rs.15,000/- per month.

Heard.

Since the challenge in the present appeal is only regarding the quantum of compensation and the factum of the accident is not under dispute, the facts are not being adverted to for the sake of brevity. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.7,000/-
2	Annual income	[7,000 x 12] =Rs.84,000/-
3	Deduction 1/5th	[84,000-16,800] =Rs.67,200/-
4	Multiplier of 15	[67,200x15] = Rs.10,08,000/-
5	Funeral expenses	Rs.25,000/-
6	Love and Affection	Rs.1,00,000/-
7	Loss of Consortium to Widow	Rs.1,00,000/-
	Total Compensation	Rs.12,33,000/-
	Interest	6% per annum

The argument of learned counsel for the claimant-appellants that the deceased was earning Rs.15,000/- per month deserves to be rejected

on the ground that there is no documentary evidence on the record to prove the fact that the deceased was earning Rs.15,000/- per month. However, there is no reason to disbelieve the statement of CW3 - Tehal Singh - that the deceased was working as a Mason. The respondents have not been able to elicit anything from the cross-examination of the said witness to belie his statement that the deceased was working as a Mason. In view thereof, the income of the deceased, treating him to be a skilled worker, would have to be assessed on the basis of minimum wages for a skilled worker at the time of the accident in the State of Punjab which was Rs.8,430/- per month. The income of the deceased is, accordingly, assessed as Rs.8,430/- per month. An addition of 40% would have to be made towards future prospects. A multiplier of ‘15’ as well as a deduction of 1/5th has rightly been applied by the Tribunal. However, the amount under the conventional heads as well as under the head consortium would have been re-worked out as per the judgments of the Hon’ble Supreme Court in the cases of **Magma General Insurance Co. Ltd.** (supra); **Pranay Sethi** (supra) and **N. Jayasree** (supra). Accordingly, the claimant-appellants would be entitled to an amount of Rs.44,000/- each under the head consortium i.e. parental, filial and spousal and further they would also be entitled to Rs.16,500/- and Rs.16,500/- under the conventional heads. Accordingly, the re-worked out compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.8,430/-
2	Annual income	[8,430 x 12] =Rs.1,01,160/-

3	Deduction 1/5th	[1,01,160-20,232] =Rs.80,928/-
4	Future prospect @ 40%	[80,928+32,371]=Rs.1,13,299/-
5	Multiplier of 15	[1,13,299 x15]=Rs.16,99,485/-
6	Loss of estate	Rs.16,500/-
7	Funeral expenses	Rs.16,500/-
8	Loss of Consortium : (i) Parental (ii) Filial (iii) Spousal	Rs.2,20,000/- (44,000x5) Rs.44,000/- Rs.44,000/- (Total Rs.3,08,000/-)
	Total Compensation	Rs.20,40,485/-
	Amount Awarded by the Tribunal	Rs.12,33,000/-
	Enhanced amount	Rs.8,07,485/-

The enhanced amount shall carry interest @ 6% per annum from the date of filing of the claim petition till realization excluding the period of delay in filing the appeal. The amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

In view of the above, the appeal stands allowed and the award of the Tribunal is modified to the above-mentioned extent. Pending applications, if any, also stands disposed off.

14.03.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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