IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R-638-1 **FAO No.1098 of 2003**
Date of Decision : 24.03.2023

Baljit Kaur and Others ....Appellants

VERSUS

State of Punjab and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashwani Arora, 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.6,72,000/- was awarded to the claimant-appellants on account of death of Jaspal Singh Grewal (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.

The deceased in the present case was 45 years of age at the time of accident i.e. on 09.03.2001. Learned counsel for the claimant-appellants would contend that as per the income tax returns, the income of the deceased was shown from two sources; one from business and one from agricultural work. The Tribunal has assessed the income of the deceased only on the basis of income being earned by him from his business and not from agricultural work. Learned counsel for the claimant-appellants has relied upon a judgment of the Hon'ble Supreme Court in the case of **State of Haryana & Anr. vs. Jasbir Kaur & Ors. [2003 ACJ 1800]** to contend that even in a case where the deceased was an agriculturist and was claiming to be earning Rs.10,000/-

per month, the Hon'ble Supreme Court, holding that since the land remains with the family, therefore, normal rule of deprivation of income would not be strictly applicable. However, keeping in view the fact that the family may be required to engage a person to look after the agricultural work, the income of the deceased was assessed as Rs.3,000/- per month from agricultural work. It is further the contention of learned counsel for the claimant-appellants that in the said case the accident had taken place in the year 1999 and on the same basis the income from agricultural work in the present case may also be assessed at Rs.3,000/- per month and the income as assessed by the Tribunal from the business may be maintained as Rs.5,000/- per month. Learned counsel for the claimant-appellants would further contend that a lump sum amount of Rs.12,000/- has been deducted towards personal expenses of the deceased whereas as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]** a deduction of 1/3rd ought to have been applied. It has further been contended that no addition has been made towards loss of future prospects and 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 25% ought to have been made towards loss of future prospects. Learned counsel has further contended that the multiplier of '14' has rightly been applied by the Tribunal, however, no amount has been awarded under the conventional heads i.e. towards loss of estate and funeral expenses and under the head of loss of consortium.

Per contra learned counsel for the respondents-State has contended that income of the deceased has rightly been assessed as Rs.5,000/-

per month and since the land remains with the family of the deceased, hence, the income from agricultural work has rightly not been assessed.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.5,000/-
2	Lump sum deduction of Rs.1000/- per month towards personal expenses of the deceased	[5,000-1,000] =Rs.4,000
3	Annual income	[4,000 x 12] =Rs.48,000/-
4	Multiplier of 14	[48,000 x 14] = Rs.6,72,000/-
	Total Compensation	**Rs.6,72,000/-**
	Interest	**9% per annum**

I have heard learned counsel for the parties.

Hon'ble Supreme Court in case of **State of Haryana & Anr. vs. Jasbir Kaur & Ors.** *(supra)* held as under :

> *"8. It is clear on a bare reading of the Tribunal's decision as affirmed by the High Court that no material was placed before the former to prove as to what was the income. As rightly contended by learned counsel for the appellants, there was not even any material adduced to show type of land which the deceased possessed. The matter can be approached from a different angle. The land possessed by the deceased still remains with the claimants as his legal heirs. There is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly*

applicable to cases where agricultural income is the source. Attendant circumstances have to be considered. Furthermore, there was no material before the Tribunal to arrive at the figure of Rs.4500 per month. No reason has been indicated to arrive at this figure. In the light of what has been discussed above about "just compensation" the income cannot be estimated without any material to justify the estimation. In the normal course, we would have remitted the matter back to the Tribunal for fresh consideration. But considering the fact that one young person lost his life, and the matter was pending before the Tribunal and the High Court for some years, we feel it appropriate to take all relevant factors into consideration, and decide the matter. Gauging the relevant aspects, noted above, the monthly income is fixed at Rs.3000/- and after deducting Rs.1,000/- for personal expenses, financial contribution so far as the claimants are concerned is fixed at Rs.2,000/- per month…………………………..."

The claimant-appellants in the present case are the widow and two minor children of the deceased and keeping in view the fact that the claim petition was filed by them, as per the dictum of the Hon'ble Supreme Court in the case of **State of Haryana & Anr. vs. Jasbir Kaur & Ors.** *(supra)*, some amount ought to have been assessed as income from agricultural work as done in the said case. In view thereof, this Court deems it appropriate to assess income of the deceased from agricultural work at Rs.3,000/- per month since the widow would have to engage some person to look after the agricultural work. The total income of the deceased is hence assessed as Rs.8,000/- per month. As per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** *(supra),* a deduction of 1/3rd has to be applied. No addition has been made towards loss of future prospects. Keeping in view the age of the deceased, an addition of 25% has to be made towards loss of future prospects. The multiplier of '14' has rightly been applied, however, no amount has been awarded under the conventional heads i.e. towards loss of estate and funeral expenses and under the head of loss of consortium. The claimant-appellants would be entitled to compensation under the conventional heads as well as under the head of loss of consortium as per the law settled in the cases of **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]**.

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 of the deceased	Rs.8,000/-
2	Annual Income of the deceased	[8,000 x 12] = Rs.96,000/-
3	Annual dependency of the claimants after deduction of 1/3rd	[96,000 – 32,000] = Rs.64,000/-
4	Future Prospects @ 25%	[64,000 + 16,000] = Rs.80,000/-
5	Multiplier of 14	[80,000 x 14] = Rs.11,20,000/-
6	Loss of Consortium (i) Parental (2 children) (ii) Spousal	 Rs.88,000/- (44000 x 2) Rs.44,000/- (Total Rs.1,32,000)

7	Loss of Estate	Rs.16,500/-
8	Funeral Expenses	Rs.16,500/-
	Total Compensation	**Rs.12,85,000/-**
	Amount Awarded by the Tribunal	**Rs.6,72,000/-**
	Enhanced amount	**Rs.6,13,000/-**

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 enhanced amount shall be apportioned between the claimant-appellants as directed by the Tribunal. However, the same be released to the claimant-appellants forthwith as 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

(ALKA SARIN)
JUDGE

24.03.2023
jk

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