IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R-638-2 **FAO No.1099 of 2003 (O&M)**
Date of Decision : 24.03.2023

Kuldeep 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.6,40,000/- was awarded to the claimant-appellants on account of death of Balihar Singh (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 though the income of the deceased has rightly been assessed, however, the Tribunal while awarding the compensation has made a lump sum deduction of Rs.16,890/- 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 $1/3^{rd}$ ought to have been applied. Learned counsel for the claimant-appellants would further contend that the award passed by the Tribunal is not in consonance with the law laid down by the Hon'ble Supreme Court in the cases of **Sarla Verma** *(supra),* **National Insurance Company Ltd. vs.**

Pranay Sethi & Ors. [(2017) 16 SCC 680], **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]**. No addition has been made towards loss of future prospects of the deceased, which ought to have been 40% keeping in view the age of the deceased, who was 36 years of age. 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. Learned counsel for the claimant-appellants has fairly conceded that the multiplier of '15' instead of '16' ought to have been applied by the Tribunal.

Per contra learned counsel for the respondents-State has contended that the deceased was 36 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 compensation.

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

Sr. No.	Heads	Compensation Awarded
1	Annual income of the deceased	Rs.56,890/-
2	Lump sum deduction of Rs.16,890/- towards personal expenses of the deceased	[56,890 -16,890] = Rs.40,000/-
3	Multiplier of 16	[40,000 x 16] = Rs.6,40,000/-
	Total Compensation	**Rs.6,40,000/-**
	Interest	**9% per annum**

I have heard learned counsel for the parties.

In the present case, the income of the deceased has rightly been assessed by the Tribunal. Further, as per the law laid down by the Hon'ble Supreme Court in the cases of **Sarla Verma** *(supra)* and **Pranay Sethi** *(supra)*, the Tribunal instead of applying a lump sum deduction ought to have applied a deduction of 1/3rd towards personal expenses of the deceased. Keeping in view the age of the deceased, who was 36 years of age, a multiplier of '15' instead of '16' ought to have been applied. An addition of 40% ought to have been made towards loss of future prospects. The claimant-appellants would 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	Annual income of the deceased	Rs.56,890/-
2	Annual dependency of the claimants after deduction of 1/3rd	[56,890 – 18,963] = Rs.37,927/-
3	Future Prospects @ 40%	[37,927 + 15,171] = Rs.53,098/-
4	Multiplier of 15	[53,098 x 15] = Rs.7,96,470/-
5	Loss of Consortium (i) Parental (2 children) (ii) Spousal	 Rs.88,000/- (44000 x 2) Rs.44,000/- (Total Rs.1,32,000)
6	Loss of Estate	Rs.16,500/-
7	Funeral Expenses	Rs.16,500/-
	Total Compensation	**Rs.9,61,470/-**
	Amount Awarded by the Tribunal	**Rs.6,40,000/-**
	Enhanced amount	**Rs.3,21,470/-**

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