

FAO No.1523 of 2004 (O&M)

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R-904

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

FAO No.1523 of 2004 (O&M)

Date of Decision : 21.04.2023

Salindera Devi (since deceased) through LRs and OthersAppellants

VERSUS

Balvinder Singh and OthersRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Priyanka Vij, Advocate for
Mr. Nitin Singhal, Advocate for the appellants.

Mrs. Shamsher Kaur, Advocate

for respondent No.3-Insurance Company.

ALKA SARIN, J. (Oral)

The present appeal has been preferred by the claimant-appellants against the award dated 09.01.2004 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as the 'Tribunal'). 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 deceased in the present case was working as a Head Constable in the Haryana Police and his income has rightly been assessed as Rs.7,600/- per month by the Tribunal. However, a multiplier of 15 has been applied instead of 16. It is further the contention that the deceased was 35 years and 3

months of age at the time of accident, hence multiplier of 16 ought to have been applied. It is further the contention that the award is not as per the law laid down by the Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**; **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]** inasmuch as no amount has been awarded under the conventional heads and the head Loss of Consortium. Further, no amount has been awarded towards the future prospects.

Per contra, learned counsel for respondent no.3-Insurance Company has contended that sufficient amount has already been awarded and there is no scope for enhancement. Learned counsel has further contended that no amount has been deducted towards personal expenses.

The Tribunal has awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.7,600/-
2	Annual Income of the deceased	Rs.60,000/-
3	Multiplier of 15	Rs.9,00,000/- (Rs.60,000 x 15)
4	Funeral Expenses	Rs.10,000/-
	Total Compensation	Rs.9,10,000/-

I have heard learned counsel for the parties.

In the present case the deceased was 35 years and 3 months of age at time of the accident. He has left behind a widow, mother and two children. The income of the deceased has rightly been assessed as Rs.7,600/-. A deduction of 1/4th is to be applied as per the law laid down in the case of Sarla Verma (supra). A perusal of the award reveals that a wrong multiplier has been applied. The deceased had not yet completed 36 years and hence a multiplier of 16 ought to have been applied. No amount has been awarded towards future prospects by the Tribunal. Keeping in view the fact that the deceased would fall in the category of salaried class, 50% addition would have to be made towards future prospects as per the law laid down in the case of Pranay Sethi (supra). In view of the law laid down in the cases of Pranay Sethi (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimant-appellants would also be entitled to Rs.33,000/- (Rs.16,500+Rs.16,500) for the loss of estate, funeral expenses etc., under the Conventional Heads. The mother would be entitled to Rs.44,000/- towards filial consortium. Two children would be entitled to Rs.44,000/- (each) towards parental consortium and the widow of the deceased would be entitled to Rs.44,000/- towards spousal consortium.

The re-worked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	Rs.7,600/- (Rs.91200 x 12)
2	Deduction of 1/4 th share	Rs.68,400/- (Rs.91,200 – Rs.22,800)
3	Future prospects @ 50%	Rs.1,02,600/- (Rs.68,400 + Rs.34,200)

4	Multiplier of 16	Rs.16,41,600/- (Rs.1,02,600 x 16)
5	Loss of Estate	Rs.16,500/-
6	Funeral Expenses	Rs.16,500/-
7	Loss of Consortium Parental : Rs.88,000/- (R.44,000x2) Spousal : Rs. 44,000/- Filial : Rs.44,000/-	Rs.1,76,000/-
	Total Compensation	Rs.18,50,600/-
	Amount Awarded by the Tribunal	Rs.9,10,000/-
	Enhanced amount	Rs.9,40,600/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% from the date of filing of the claim petition till realization of the entire amount. The amount shall be apportioned amongst the claimant-appellants as directed by the Tribunal.

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.

April 21, 2023
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(ALKA SARIN)
JUDGE

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