

R-627

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5575-2002 (O&M)
Date of decision : 16.01.2023

Manjinder Singh and Ors ... Appellant(s)

Versus

Daya Ram And Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kapish Singla, Advocate for
Mr. Ashit Malik, Advocate for the appellants.

None for respondent No.2.

Mr. Lalit Garg, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

The present is a burnt case and has been reconstructed with the help of the counsel. The record of the Tribunal is not available.

The present appeal has been filed challenging the award dated 31.08.2002 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as ‘Tribunal’) wherein the following compensation was awarded by the Tribunal :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.2000/-
2	1/3rd deduction towards personal expenses	Rs.1334/- (2000-666)
3	Annual income of the deceased	Rs.15908/- (as taken by the Tribunal)

4	Multiplier 13	Rs.2,06,804/- (15908x13)
5	Total income of the deceased	Rs.2,06,804/-
6	Funeral expenses	Rs.5,000/-
	Grand Total	Rs.2,11,804/-
	Interest	9% per annum

Since the factum of the accident is not in dispute, the facts are not being reproduced for the sake of brevity.

Learned counsel for the appellants would contend that the dependency in the present case has been assessed as 1/3rd, however, since there were six claimants it should have been assessed as 1/4th. It is further the contention that a multiplier of ‘13’ has wrongly been applied whereas a multiplier of ‘16’ ought to have been applied keeping in view the age of the deceased. Learned counsel for the appellants would further contend that no amount has been awarded under the head of consortium. Further, the amount awarded under the conventional head is also on the lower side. Learned counsel for the appellants would further contend that no amount towards future prospects has been granted whereas it should have been 40%. In support of his contentions, learned counsel for the appellants has relied upon the judgments of Hon’ble Supreme Court in the cases of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors. [(2009) 6 SCC 121]; National Insurance Company Limited Vs. Praney Sethi [(2017) 16 SCC 680], Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & Ors. [2018 (4) RCR (Civil) 333] and N. Jayasree and Ors V. Cholanandalam MS General Ins. Co. Ltd. [2021 ACJ 2685].**

Per contra, learned counsel for respondent No.3-Insurance Company states that the amount awarded is just and proper and there is no

scope of enhancement.

No one has put in appearance on behalf of the respondent No.2 (owner of the offending vehicle) despite service and hence respondent No.2 is proceeded against *ex parte*.

Heard.

A perusal of the award reveals that in the present case the award is not in accordance with the parameters as laid down by the Hon'ble Supreme Court as per law laid down in the cases of **Sarla Verma** (supra), **Praney Sethi** (supra), **Magma General Insurance Co. Ltd.** (supra) and **N. Jayasree** (supra). The dependency, though there were six claimants, has been assessed as $\frac{1}{3}^{\text{rd}}$ whereas the same should have been $\frac{1}{4}^{\text{th}}$. Further, the multiplier has also wrongly been applied as '13' and the same ought to have been '16'. No amount towards future prospects has been granted. As per the age of the deceased, which was 33 years as mentioned in the appeal, an addition @ of 40% is made towards future prospects. Further, no amount has been awarded under the head of consortium as per the law laid down by Hon'ble Supreme Court. In view thereof, an amount of Rs.44,000/- each is awarded to the claimant-appellants being minor children, spouse and mother of the deceased. The amount under the conventional head is also on the lower side and hence an amount of Rs.16500/- each is awarded under the heads of loss of estate and funeral expenses. The interest component awarded by the Tribunal is maintained.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.2000/-
2	Annual income of the deceased	Rs.24000/- (2000x12)
3	Annual income after 1/4th deduction towards personal expenses	Rs.18000/- (24000-6000)
4	Multiplier 16	Rs.2,88,000/- (18000x16)
5	Future prospects @ 40%	Rs.1,15,200/-
6	Total income of the deceased	Rs.4,03,200/- (288000+115200)
7	Funeral expenses	Rs.16500/-
8	Loss of estate	Rs.16500/-
9	Loss of Consortium : Spouse Parental Filial	Rs.44,000/- Rs.1,76,000/- (44000x4) Rs.44,000/- (Total Rs.2,64,000/-)
	Total Compensation	Rs.7,00,200/-
	Amount Awarded by the Tribunal	Rs.2,11,804/-
	Enhanced amount	Rs.4,88,396/-

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 realization of the entire amount.

It is made clear that award stands modified only to the extent aforementioned and the recovery rights given to respondent No.3-Insurance Company are maintained.

The present appeal is disposed off in the above terms. Pending applications, if any, also stand disposed off.

16.01.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE