IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R-638-3 **FAO No.1441 of 2003**
Date of Decision : 24.03.2023

Daljit Kaur Sodhi 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.5,31,600/- was awarded to the claimant-appellants on account of death of Harbhajan Singh Sodhi (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 51 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 agriculture. The Tribunal has assessed 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, held 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.64,300/- per annum. Learned counsel for the claimant-appellants would further contend that a lump sum amount of Rs.20,000/- per annum 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 made. 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 fairly conceded that the multiplier of '11' instead of '12' ought to have been applied by the Tribunal. 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 states that income of the deceased has rightly been assessed and since the land remains with the family of the deceased, hence, the income from the agricultural work has rightly not been assessed.

I have heard learned counsel for the parties.

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

Sr. No.	Heads	Compensation Awarded
1	Annual income of the deceased	Rs.64,300/-
2	Lump sum deduction of Rs.20,000/- towards personal expenses of the deceased	[64,300-20,000] =Rs.44,300/-
3	Multiplier of 12	[44,300x12] = Rs.5,31,600/-
	Total Compensation	**Rs.5,31,600/-**
	Interest	**9% per annum**

The argument of the learned counsel for the claimant-appellants that the deceased had agricultural income as well cannot be accepted in the absence of any evidence produced by the claimant-appellants. The income is therefore, maintained at Rs.64,300/- per annum. As per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** *(supra),* a deduction of $1/3^{rd}$ has to be made towards personal expenses of the deceased and the multiplier of '11' instead of '12' ought to have been applied. No addition has been made towards loss of future prospects. Keeping in view the age of the deceased, an addition of 10% is to be made towards loss of future prospects in view of the law laid down in the case of **Pranay Sethi** *(supra)*. 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 towards loss of consortium as per the settled law 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	Annual income of the deceased	Rs.64,300/-
2	Annual dependency of the claimants after deduction of 1/3rd	[64,300 – 21,433] = Rs.42,867/-
3	Future Prospects @ 10%	[42,867 + 4,287] = Rs.47,154/-
4	Multiplier of 11	[47,154 x 11] = Rs.5,18,694/-
5	Loss of Consortium (i) Parental (2 children) (ii) Spousal	 Rs.88,000/- (44,000 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.6,83,694/-**
	Amount Awarded by the Tribunal	**Rs.5,31,600/-**
	Enhanced amount	**Rs.1,52,094/-**

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.

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