

R-694
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1980 of 2006 (O&M)
Date of Decision : 13.02.2023

Jeeto Devi and OthersAppellants

VERSUS

Mahavir Singh and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Siddarth Gupta, Advocate (Legal Aid Counsel)
for the appellants.

Mr. R.C.Gupta, 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 10.10.2005 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as the ‘Tribunal’) aggrieved by the quantum of compensation awarded.

The Tribunal has awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.2500/-
2	Annual dependency of the claimants after deduction of 1/3 th	Rs.20000 (30000-10000)
3	Multiplier of 16	Rs.320000/-
	Total Compensation	Rs.320000/-

The factum of the accident is not in dispute and hence the facts are not being reproduced for the sake of brevity.

Learned legal aid counsel appearing on behalf of the claimant-appellants states that the age of the deceased has rightly been ascertained as

26 years as per the post mortem report. He further contends that an amount

of Rs.2500/- was determined as the monthly wage as per the minimum wages. However, it is the contention of the learned counsel that a multiplier of 17 ought to have been applied in view of the law laid down by the Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]** keeping in view the age of the deceased as 26 years. It is further the contention that even the deduction has wrongly been applied as $1/3^{\text{rd}}$. Since there are five dependants, $1/4^{\text{th}}$ deduction ought to have been applied. Learned counsel has further contended that as per the law laid down by the Supreme Court in the cases of **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 amount has been awarded under the heads Future Prospects, Consortium and under the Conventional Heads.

Per contra learned counsel for the respondent no.3-Insurance Company states that already sufficient amount has been awarded by the Tribunal and there is no scope of enhancement in the present case. It has also been pointed out by the counsel that in FAO-564-2006 filed by the respondent No.3-Insurance Company, recovery rights have already been granted to it.

I have heard learned counsel for the parties.

In the present case the age of the deceased has been taken as 26 years as per the post-mortem report Ex.P/2. Salary of the deceased as per the minimum wages prevailing at the time of accident has been assessed as

Rs.2500/- and no interference is required in the said finding. However, as per the settled law laid down in the cases of *Sarla Verma* (supra), *Pranay Sethi* (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the multiplier applicable in the present case would be 17, keeping in view the age of the deceased as 26 years. 1/4th cut towards deduction would have to be applied keeping in view the fact that there are five dependants. In view of the settled law, an addition 40% would have to be made towards future prospects. No amount has been awarded towards consortium. The claimants who are the children, widow and parent of the deceased would be entitled to Rs.44,000/- (each) under the head Consortium (the father of the deceased having since expired). The claimants would also be entitled of Rs.33000/- (16500+16500) towards funeral expenses and loss of estate under the conventional head.

The re-worked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	Rs.30000/- (2500 x 12)
2	Deduction of 1/4 th share	Rs.22500/- (30000-7500)
3	Future prospects @ 40%	Rs.31500/-(22500+9000)
4	Multiplier of 17	Rs.535500/-
5	Loss of Estate	Rs.16,500/-
6	Funeral Expenses	Rs.16,500/-
7	Loss of Consortium Parental : Rs.44,000/- Spousal : Rs.44,000/- Filial : Rs.88,000/- (R.44000x2)	Rs.1,76,000/-
	Total Compensation	Rs.7,44,500/-
	Amount Awarded by the Tribunal	Rs.3,20,000/-
	Enhanced amount	Rs.4,24,500/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% from the date of filing of the claim petition till realization of the entire amount. The enhanced amount shall be apportioned equally amongst the claimant-appellants and claimant-respondent No.3.

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.

February 13, 2023
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(ALKA SARIN)
JUDGE

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