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

**215** **FAO No.610 of 2007 (O&M)**
**Reserved on : 11.01.2023**
**Date of Decision : 17.01.2023**

Savitri Tiwari and Others ....Appellants

VERSUS

Mohammad Harun and Others ....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Kamal Mor, Advocate for the appellants.

Mr. R.K. Bashamboo, Advocate for
Mr. D.P. Gupta, Advocate for respondent no.3.

**ALKA SARIN, J.**

The present appeal has been preferred by the claimant-appellants against the award dated 31.10.2006 passed by the Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as the 'Tribunal') on the ground that compensation awarded by the Tribunal on account of death of Ravi Shankar Tiwari (hereinafter referred to as the 'deceased') is inadequate under the various heads.

Since the facts are not in dispute, the same are not being referred to for the sake of brevity.

Learned counsel for the claimant-appellants has contended that the age of the deceased in the present case was 53 years, however, a multiplier of 8 instead of 11 has been applied by the Tribunal which is contrary to the law laid down by Hon'ble Supreme Court in case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**. Learned counsel for the claimant-appellants would further contend that the salary certificate (Ex.P4) of the deceased was produced in evidence as per which the salary of the deceased was Rs.21,400/- per month. The salary certificate was also duly proved by PW-5 Surinder Kumar. It is further the contention of learned counsel for the claimant-appellants that though after deducting the amount of income tax the net salary of the deceased came to Rs.17,900/- per month, however, the Tribunal has erroneously applied guess work and assessed the salary of the deceased as Rs.14,000/- per month stating that there would have been certain other allowances and deductions which had not been mentioned in the salary slip. Learned counsel for the claimant-appellants would further contend that in the absence of any evidence to the contrary, the salary of the deceased ought to have been assessed as Rs.17,900/- per month. It has further been contended that a lump sum deduction of Rs.5000/- per month has been made towards personal expenses of the deceased whereas deduction of 1/3$^{rd}$ should have been made as per the law laid down by the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]** and **Sarla Verma** *(supra)*. Learned counsel has further contended that no amount has been awarded towards future prospects whereas an addition of 10% ought to have been made towards future prospects. He has also contended that only Rs.10,000/- has been awarded towards loss of consortium and even no amount has been awarded under the conventional heads. He has contended that the claimant-appellants are entitled to Rs.40,000/- each towards loss of consortium in view of the law laid down by the Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and that they are also entitled to 10% increase under the conventional heads as well as under the head consortium as per the law laid down in **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021 (4) RCR (Civil) 642]**.

*Per contra* learned counsel for respondent no.3 has contended that adequate amount of compensation has been awarded to the claimant-appellants and there is no scope of any further enhancement.

I have heard learned counsel for the parties.

The compensation awarded by the Tribunal is as under :

| Sr. No. | Heads | Compensation Awarded |
|---|---|---|
| 1 | Annual Income of the deceased | [14000 x 12] = Rs.1,68,000/- |
| 2 | Annual dependency of the claimants after lump sum deduction of Rs.5000/- per month | [1,68,000 - 60000] = Rs.1,08,000/- |
| 3 | Multiplier of 8 | [108000 x 8] = Rs.8,64,000/- |
| 4 | Loss of Consortium | Rs.10000/- |
| 5 | Funeral Expenses | Rs.6000/- |
| | **Total Compensation** | **Rs.8,80,000/-** |

In the present case the salary of the deceased has erroneously been assessed as Rs.14,000/- per month on the basis of guess work. The salary slip of the deceased, which has been proved on the record, shows that the salary of the deceased was Rs.21,400/- per month and after deducting Rs.3500/- towards income tax the net salary of the deceased would be Rs.17,900/- per month. There is no evidence to the contrary that there was any allowance or deduction which needed to be considered while assessing the salary of the deceased. In view thereof, the salary of the deceased is assessed as Rs.17,900/- per month. As per the law laid down by the Hon'ble Supreme Court in the cases of **Sarla Verma** *(supra)* and **Pranay Sethi** *(supra)*, in view of the age of the deceased, a multiplier of 11 is to be applied and 1/3rd deduction is to be applied towards personal expenses of the deceased and an addition of 10% is to be made towards 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 **Nanu Ram alias Chuhru Ram** *(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 | [17900 x 12] = Rs.2,14,800/- |
| 2 | Annual dependency of the claimants after deduction of 1/3rd | [214800 - 71600] = Rs.1,43,200/- |
| 3 | Future Prospects @ 10% | [143200 + 14320] = Rs.1,57,520/- |
| 4 | Multiplier of 11 | [157520 x 11] = Rs.17,32,720/- |
| 5 | Loss of Consortium<br>(i) Parental (2 children)<br>(ii) Spousal | <br>Rs.88,000/- (44000 x 2)<br>Rs.44,000/-<br>(Total Rs.1,32,000) |
| 6 | Loss of Estate | Rs.16,500/- |
| 7 | Funeral Expenses | Rs.16,500/- |
| | **Total Compensation** | **Rs.18,97,720/- (rounded off to Rs.18,98,000/-)** |
| | **Amount Awarded by the Tribunal** | **Rs.8,80,000/-** |
| | **Enhanced amount** | **Rs.10,18,000/-** |

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 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**

**17.01.2023**
**jk**

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