

R-797

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****FAO-5074-2010 (O&M)
Reserved on : 16.01.2023
Date of decision : 20.01.2023**

Rajwanti and Others

....Appellants

Versus

Shamsher Singh and Others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mani Ram Verma, Advocate for the appellants.

Mr. R.C. Gupta, Advocate
for respondent No.3-Insurance Company**ALKA SARIN, J.**

The present appeal has been preferred by the claimant-appellants against the award dated 19.11.2009 passed by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'Tribunal').

Since the factum of the accident is not in dispute, the facts are not being reproduced herein for the sake of brevity. The only challenge in the present appeal by the claimant-appellants is to the quantum of compensation as awarded by the Tribunal.

Learned counsel for the claimant-appellants would contend that as per the post-mortem report the age of the deceased was about 14-15 years at the time of his death. The accident took place in the year 2008 and further that the deceased was a student at the time of his death, hence, as per the law

laid down by Hon'ble 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]**, keeping in view of the age of the deceased, a multiplier of '18' ought to have been applied and an addition @ 40% ought to have been made towards future prospects. It is further the contention that no amount has been awarded towards loss of estate and loss of consortium and that the amount awarded towards last rites is also on the lower side.

Per contra, learned counsel for the respondent No.3-Insurance Company has contended that only the mother and the father would be considered as the legal representatives and not the minor brothers and sisters of the deceased. It is further the contention that the amount awarded is just and proper and there is no scope of enhancement.

Heard.

The Tribunal in the present case awarded an amount of Rs.1,73,000/- (Rs.1,68,000/- towards loss of dependency and Rs.5,000/- towards last rites) along with interest @ 7% from the date of passing of the award till the payment of compensation. The deceased in the present case was 15-16 years of age. In the case of **Kajal Vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27]**, though it was a case of injury, the income of the minor who was aged 12 years was assessed on the basis of the minimum wages. In the present case at the time of the accident the minimum wage was Rs.4,184/- per month. Being a bachelor, deduction of 50% would have to be

applied as per the settled law. An addition of 40% would have to be added towards future prospects. The Tribunal has applied the multiplier keeping in view the age of the parents which is contrary to the law laid down. A multiplier of ‘18’ would be applicable keeping in view the age of the deceased. Further, as per the settled law an amount of Rs.16,500/- would be payable towards loss of estate and Rs.16,500/- towards funeral expenses. Though the minor siblings of the deceased cannot be held to be dependent on the deceased, however, they would be entitled to filial consortium. Even the parents would be entitled to filial consortium. In view thereof, all five i.e. the parents and 3 siblings, are awarded an amount of Rs.44,000/- each towards filial consortium. Accordingly, the modified amounts as awarded are as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income of the deceased	Rs.4,184/-
2	Annual income of the deceased	[4184 x 12] =Rs.50,208/-
3	Deduction 1/2	[50208-25104] =Rs.25,104/-
4	Future Prospects @ 40%	[25104+10,041] = 35,145/-
5	Multiplier of 18	[35145x18] = Rs.6,32,620/-
6	Loss of estate	Rs.16,500/-
7	Funeral expenses	Rs.16,500/-
8	Loss of Consortium : Filial	Rs.2,20,000/- (44000 x 5)
	Total Compensation	Rs.8,85,620/-
	Amount Awarded by the Tribunal	Rs.1,73,000/-
	Enhanced amount	Rs.7,12,620/-

The Tribunal has erroneously awarded the interest from the date of passing of the award, however, the same as per the settled law needs to be awarded from the date of filing of the claim petition. Accordingly, the entire

amount including the enhanced amount shall carry interest @ 7% from the date of filing of the claim petition till realization.

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.

20.01.2023

Yogesh Sharma

**(ALKA SARIN)
JUDGE**

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