

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.3467 of 2011 (O&M)
Date of Decision : 23.01.2023

Gurmeet Kaur and AnotherAppellants

VERSUS

Pappu Singh and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Gupta, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent no.3.

ALKA SARIN, J. (Oral)

The present appeal has been preferred by the claimant-appellants against the award dated 04.01.2011 passed by the Motor Accident Claims Tribunal, Bathinda (hereinafter referred to as the ‘Tribunal’) whereby an amount of Rs.1,09,500/- has been awarded as compensation by the Tribunal on account of death of Jagdeep Singh (hereinafter referred to as the ‘deceased’).

Since the facts are not in dispute, the same are not being referred to for the sake of brevity. Vide order dated 28.09.2022 passed in FAO No.4194 of 2012, the award passed by the Tribunal was modified to the extent that the driver and owner of the offending vehicle along with the Insurance Company were held jointly or severally liable to pay the amount of compensation.

The Tribunal in the present case awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Notional Income of the deceased	Rs.15000/- per annum
2	Annual dependency of the claimants after deduction of 50%	[15000 - 7500] = Rs.7500/-

3	Multiplier of 14	[7500 x 14] = Rs.105000/-
4	Loss of Estate	Rs.2500/-
5	Funeral Expenses	Rs.2000/-
	Total Compensation	Rs.109500/-

Learned counsel for the claimant-appellants has contended that the deceased at the time of accident was 20 years of age and was earning Rs.5000/- per month. It is further the contention that now as per the law laid down 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]**, a multiplier of ‘18’ ought to have been applied whereas the Tribunal had applied a multiplier of ‘14’ keeping in view the age of the parents. It is further the contention that addition of 40% ought to have been made towards future prospects and amounts also ought to have been awarded under the conventional heads as well as loss of filial consortium.

Per contra learned counsel for respondent no.3-Insurance Company has contended that in the absence of any evidence qua income of the deceased, the same has rightly been quantified as Rs.15000/- per annum. It is further the contention that 50% deduction has been made on account of the deceased being a bachelor.

I have heard learned counsel for the parties.

In the present case the deceased was 20 years of age. The Tribunal had applied a multiplier of ‘14’ keeping in mind the age of parents of the deceased whereas a multiplier of ‘18’ as per age of the deceased had to be applied. Further, in the absence of any evidence regarding the income of the deceased the same ought to have been assessed on the basis of minimum wages, which at the time of accident was Rs.3500/- per month. Further, being a bachelor a deduction of 50% would have to be made. 40% addition would also have to be made keeping in view the law laid down by Hon’ble Supreme Court in the cases referred to by counsel for the claimant-appellants. Under the conventional heads also a cumulative amount of Rs.33,000/- would be payable. Both the parents of the deceased would be entitled to compensation of Rs.44,000/- each towards loss of consortium under the head of filial consortium.

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

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	[3500 x 12] = Rs.42000/-
2	Annual dependency of the claimants after deduction of 50%	[42000 - 21000] = Rs.21000/-
3	Future prospects @ 40%	[21000 + 8400] = Rs.29400/-
4	Multiplier of 18	[29400 x 18] = Rs.529200/-
5	<u>Loss of Consortium</u> (i) Filial (parents)	Rs.88000/- (44000 x 2)
6	Loss of Estate	Rs.16,500/-
7	Funeral Expenses	Rs.16,500/-
	Total Compensation	Rs.650200/-
	Amount Awarded by the Tribunal	Rs.109500/-
	Enhanced amount	Rs.540700/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% from the date of filing of the claim petition till realization of the entire amount. The amount shall be equally divided between the claimant-appellants.

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.

23.01.2023
jk

(ALKA SARIN)
JUDGE

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