

206-A

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

FAO No.1570 of 2012 (O&M)

Date of Decision : 25.01.2023

Somi and Others

....Appellants

VERSUS

Des Raj and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Akhilesh Vyas, Amicus Curiae

Mr. Neeraj Khanna, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

Since none has put in appearance on behalf of the appellants, Mr. Akhilesh Vyas, Advocate is appointed as Amicus Curiae in the present case to assist the Court.

The present appeal has been preferred by the claimant-appellants for enhancement of the compensation as awarded by the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as the 'Tribunal') vide award dated 30.09.2011 in a death case. Connected appeal being **FAO-6901-2011** has been dismissed by this Court vide separate order of even date.

The factum of the accident is not in dispute and hence the facts are not adverted to in the present appeal for the sake of brevity.

Learned amicus appearing on behalf of the claimant-appellants would contend that in the present case no amount has been awarded towards future prospects and consortium as well as under the conventional heads. In

support of his contentions, learned amicus has relied upon 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].

Per contra, learned counsel for respondent no.3-Insurance Company has contended that sufficient amount has already been awarded and there is no scope for any enhancement.

I have heard learned counsel for the parties.

The Tribunal in the present case awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.4,500/-
2	Annual dependency of the claimants after deduction of 1/4 th	Rs.40,500/-
3	Multiplier of 14	Rs.5,67,000/-
4	Loss of Estate	Rs.5,000/-
5	Funeral Expenses	Rs.5,000/-
6.	Loss of consortium	Rs.10,000/-
	Total Compensation	Rs.5,87,000/-

In the absence of any evidence, the income of the deceased was assessed on the basis of minimum wages i.e. Rs.4500/-. The age of the deceased at the time of the accident was 45 years. The Tribunal has correctly applied multiplier of 14 and has rightly applied a cut of 1/4th , however, no

amount has been awarded towards future prospects and under the conventional heads and the amount given under the head consortium is on the lower side.

In view of the settled law, the claimant-appellants would be entitled to an addition of 25% towards future prospects. An amount of Rs.33,000/- is awarded under the conventional heads. The widow would be entitled to spousal consortium of Rs.44000/-. The children would be entitled to an amount of Rs.44,000/- each towards parental consortium. The sister would be entitled to an amount of Rs.44,000/- towards filial consortium. The modified amount of compensation to which the claimant-appellants are entitled is re-worked as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	[4500 x 12] = Rs.54,000/-
2	Deduction of 1/4 th share	[54000-13500] = Rs.40,500/-
3	Future prospects @ 25%	[40500+10125] = Rs.50,625/-
4	Multiplier of 14	Rs.7,08,750/-
5	Loss of Estate	Rs.16,500/-
6	Funeral Expenses	Rs.16,500/-
7	Loss of Consortium Parental : Rs.1,32,000/- (R.44000x3) Spousal : Rs. 44,000/- Filial : Rs.44,000/-	Rs.2,20,000/-
	Total Compensation	Rs.9,61,750/-
	Amount Awarded by the Tribunal	Rs.5,87,000/-
	Enhanced amount	Rs.3,74,750/-

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 awarded shall be apportioned equally amongst the widow and the three children of the deceased, excluding the amount awarded to the sister of the deceased i.e. claimant-appellant No.5. The sister of the deceased i.e. appellant No.5 would be entitled to an amount of Rs.44,000/- under head consortium.

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.

Registry to send a certified copy of this order to the appellants.

January 25, 2023
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(ALKA SARIN)
JUDGE

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