

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

FAO-1365-2015 (O&M)

Date of decision : 06.02.2023

Harjinder Kaur

... Appellant(s)

Versus

Nachhatar Singh & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rishabh Gupta, Advocate for the appellant.

Mr. Nikhil Chopra, Advocate for respondent No.3.

Mr. Shikhar Kataria, Advocate for

Mr. Harsh Chopra, Advocate for respondent No.4.

ALKA SARIN, J. (ORAL)

CM-3832-CII-2015

This is an application for condonation of delay of 90 days in
refiling the appeal.

For the reasons stated in the application, delay of 90 days in
refiling the appeal is condoned.

CM stands disposed off.

CM-3833-CII-2015

This is an application for condonation of delay of 276 days in
filing the appeal.

For the reasons stated in the application, delay of 276 days in
filing the appeal is condoned.

CM stands disposed off.

FAO-1365-2015

The present appeal has been preferred by the claimant-appellant against the award dated 30.04.2013 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal'). Since the dispute in the present case is only qua the quantum of compensation and the factum of the accident is not in dispute, the facts are not being adverted to.

Learned counsel for the claimant-appellant would contend that the deceased in the present case was 19 years of age at the time of the accident which is 06.07.2010. The Tribunal has assessed the income of the deceased as Rs.4,000/- per month, however, the employer had stepped into the witness box as PW-2 and he had stated that the deceased was employed as an electrician helper. He would further contend that PW-2 had categorically stated that the deceased was earning Rs.10,000/- per month. In the alternative, learned counsel would contend that relying on the un-controverted statement of PW-2, the deceased ought to have been treated as a skilled worker and the minimum wage for a skilled worker at the relevant time was Rs.4,283/- per month. It is further the contention that a wrong multiplier of '14' has been applied by the Tribunal keeping in view the age of the parents, however, a multiplier, in the present case, would be '18' keeping in view the age of the deceased which is 19 years. Further, no amount has been awarded towards future prospects, whereas as per the law laid down in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, an addition of 40% ought to have been made towards future prospects. He would further contend that the amounts awarded under the head consortium as well as under conventional

heads are on the lower side. In support of his contentions, learned counsel for the claimant-appellant has relied upon the judgments of the Hon’ble Supreme Court in the cases of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (3) RCR (Civil) 77]**; **Magma General Insurance Co. Ltd. V. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 1]** and **N. Jayasree and Ors Vs. Cholanandalam MS General Ins. Co. Ltd. [2021 ACJ 2685]**.

Per contra, learned counsel for the respondent No.3-Insurance Company has contended that besides the statement of PW2, there is not an iota of evidence to show that the income of the deceased was Rs.10,000/- per month. No salary slips have been produced by PW-2. It is further the contention that already sufficient amount has been awarded and there is no scope of enhancement.

Heard.

In the present case, the Tribunal has awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4000/-
2	Annual income	[4000 x 12] =Rs.48000/-
3	Deduction 1/2	[48000-24000] =Rs.24000/-
4	Multiplier of 14	[24000 x 14] = Rs.3,36,000/-
5	Loss of estate	Rs.5000/-
6	Funeral expenses	Rs.5000/-
7	Loss of consortium	Rs.10000/-
8	Total Compensation	Rs.3,56,000/-
	Interest	6% per annum

The argument raised by learned counsel for the claimant-appellant that the salary of the deceased was Rs.10,000/- per month cannot be accepted in the absence of any documentary proof regarding the same. However, PW-2 had stepped into witness box and stated that the deceased was employed as an electrician helper and hence, treating the deceased to be a skilled worker, the income of the deceased is assessed as Rs.4283/- per month as per minimum wages prevailing at that time. A wrong multiplier of ‘14’ has been applied by the Tribunal and hence a multiplier of ‘18’ is applied as per the age of the deceased keeping in view the law laid down in the case of **Sarla Verma** (supra). An addition of 40% would have to be made towards future prospects as per the law laid down in the case of **Pranay Sethi** (supra). Further, as per the settled law an amount of Rs.16500/- towards loss of estate and Rs.16500/- towards funeral expenses is awarded. Further, an amount of Rs.44,000/- each towards filial consortium to the parents and the siblings i.e. the appellant, proforma respondent Nos.5 and 6 herein.

Accordingly, the re-worked out compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4283/-
2	Annual income	[4283 x 12] =Rs.51396/-
3	Deduction 1/2	[51396-25698] =Rs.25698/-
4	Future prospects @ 40%	[25698+10279] = Rs.35977/-
5	Multiplier of 18	[35977 x 18] = Rs.647586/-
6	Loss of estate	Rs.16,500/-
7	Funeral expenses	Rs.16,500/-
8	Loss of Consortium : (i) Filial	Rs.1,32,000/- (44000 x 3)

9	Total Compensation	Rs.8,12,586/-
	Amount Awarded by the Tribunal	Rs.3,56,000/-
	Enhanced amount	Rs.4,56,586/-

The enhanced amount of compensation shall attract interest @ 6% per annum from the date of the filing of the claim petition till realization.

In view of the above discussion, the award passed by the Tribunal is modified, accordingly. The present appeal is disposed off accordingly. Pending applications, if any, also stand disposed off.

06.02.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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