

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

**FAO-389-2016 (O&M)
Date of decision : 25.01.2023**

Bhano Devi & Ors.

... Appellant(s)

Versus

Lal Chand & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Narender Kaajla, Advocate for the appellants.

Mr. Anurag Jain, Advocate and
Mr. Vijay Singla, Advocate for respondent No.1.

Mr. Lalit Garg, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

The present appeal has been preferred by the claimant-appellants against the award dated 23.10.2013 passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'Tribunal') whereby the compensation to the tune of Rs.2,92,000/- along with interest @ 7.5% per annum had been awarded to the claimant-appellants.

The only grievance of the claimant-appellants in the present case is qua the quantum of compensation awarded by the Tribunal. Since the factum of the accident is not in dispute, the facts are not being adverted to.

Learned counsel for the claimant-appellants would contend that the age of the deceased in the present case was 65 years and his income has

been taken as Rs.4,000/- per month, though the minimum wages at that point

of time were Rs.4348/- per month. It is submitted that a multiplier of ‘7’ as well as deduction of 1/4th has rightly been applied by the Tribunal. Learned counsel would further contend that amount awarded under the head of consortium is on the lower side and no amount has been awarded under the conventional heads. Learned counsel for the claimant-appellants has relied upon the judgments of 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].**

Per contra, learned counsel for the respondents have contended that the income of the deceased has rightly been taken by the Tribunal as Rs.4,000/- per month. It is further the contention that an amount of Rs.20,000/- has already been awarded towards consortium to the widow and the major children would not be entitled to the consortium and that there is no scope of enhancement.

Heard.

In the present case, the following compensation has been awarded by the Tribunal:-

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4000/-
2	Annual income	[4000 x 12] =Rs.48000/-
3	Deduction 1/4th	[48000-12000] =Rs.36000/-

4	Multiplier of 7	[36000x7] = Rs.252000/-
5	Funeral expenses	Rs.20,000/-
6	Loss of Consortium to the widow	Rs.20,000/-
7	Total Compensation	Rs.2,92,000/--
	Interest	7.5% per annum

The age of the deceased, in the present case, was 65 years at the time of the accident i.e. 12.07.2010. The Tribunal has assessed the income of the deceased as Rs.4,000/-, however, at the relevant point of time the minimum wages of an unskilled worker were Rs.4,348/- per month. Hence, the income of the deceased is assessed as per the minimum wages prevalent at that point of time i.e. Rs.4348/- per month. Keeping in view the age of the deceased as 65 years, a multiplier of ‘7’ has rightly been applied by the Tribunal and the same is maintained. Deduction of 1/4th has also rightly been applied by the Tribunal and the same is also maintained. Addition towards future prospects would not be applicable in the present case keeping in view that the age of the deceased as 65 years. This Court finds that no amount has been awarded towards loss of estate and that the consortium has been awarded only to the widow to the extent of Rs.20,000/-. In view of the law laid down in the cases of **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), all the four children as well as the widow would be entitled to Rs.44,000/- each under the head of consortium and an amount of Rs.16,500/- towards loss of estate and Rs.16,500/- towards funeral expenses. Accordingly, the modified amounts as awarded are as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4348/-
2	Annual income	[4348 x 12] =Rs.52176/-
3	Deduction 1/4th	[52176-13044] =Rs.39132/-
4	Multiplier of 7	[39132x7] = Rs.273924/-
5	Loss of estate	Rs.16500/-
6	Funeral expenses	Rs.16500/-
7	Loss of Consortium : (i) Parental (ii) Spousal's	Rs.176000/- (44000 x 4) Rs.44000/- (Total Rs.220000/-)
8	Total Compensation	Rs.526924/-
	Amount Awarded by the Tribunal	Rs.292000/-
	Enhanced amount	Rs.234924/-

The enhanced amount shall carry an interest @ 7.5% from the date of filing of the claim petition till realization.

Since there is a delay in filing the appeal, an application being **CM-1129-CII-2016** was filed for condonation of delay of 693 days. For the reasons stated in the application, the same is allowed and the delay of 693 days in filing the appeal is condoned. However, no interest would be payable for the said period.

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

25.01.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE