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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4836-2016 (O&M)
Date of decision : 01.03.2023

Master Karam Chand & Ors. ... Appellant(s)

Versus

Nirmal & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kulwant Singh, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

The present appeal has been preferred by the claimant-appellants against the award dated 09.03.2016 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'Tribunal').

The grievance in the present appeal is only qua the quantum of compensation awarded to the claimant-appellants on account of death of Guddi. The claim petition was filed by the husband and three minor children. Since the factum of the accident is not in dispute, the facts are not being adverted to.

Learned counsel appearing on behalf of the claimant-appellants has contended that the deceased was a housewife and her notional income has been assessed as Rs.5400/- per month and a deduction of 1/3rd had been applied by the Tribunal. Learned counsel has relied upon the judgment passed by a Division Bench of this Court in the case of **Paramjit Singh & Anr. Vs. Dilbagh Singh @ Bagga & Ors. [2014 (4) RCR (Civil) 895]** to contend that in case of death of a housewife, where notional income was assessed, no deduction is to be made. It is further the contention of learned counsel that the age of the deceased as per the Ration Card (Ex.P10) was 37 years and hence, a multiplier of '15' ought to have been applied as per the judgment of Hon'ble Supreme Court in the case of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (3) RCR (Civil) 77]**, however, relying on the postmortem report, a multiplier of '14' had been applied by the Tribunal taking the age of the deceased as 45 years. It is further the contention that the amount awarded under the head consortium is on the lower side and further the amount awarded under conventional heads is also not in consonance with the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Company Limited Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]; Magma General Insurance Co. Ltd. V. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. Vs. Cholamandalam MS General Ins. Co. Ltd. [2021 ACJ 2685]**.

Per contra, learned counsel for respondent No.3-Insurance Company would contend that sufficient amounts had already been awarded to the claimant-appellants and that there is no scope of further enhancement.

Heard.

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

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly income (notional)	Rs.5400/-
2	Annual income	[5400 x 12] =Rs.64,800/-

3	Deduction 1/3rd	[64800-21600] =Rs.43200/-
4	Multiplier of 14	[43200x14] = Rs.6,04,800/-
5	Funeral and transport expenses	Rs.50,000/-
6	Loss of love and affection	Rs.1,00,000/-
7	Medical expenses	Rs.25,000/-
8	**Total Compensation**	**Rs.7,79,800/-**
	Interest	**9% per annum**

A Division Bench of this Court in the case of **Paramjit Singh** (supra) has held as under :

> *"14. We may hasten to add that in all those cases, referred to above, in which 1/3rd cut has been applied, no reasoning has been given by the learned Single Judge rather in the cases, referred to above, in which 1/3rd cut has not been applied, the learned Single Judge had observed that Rs.3,000/- per month is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction cannot be applied. In view of the aforesaid discussion, we are of the considered view that while calculating the notional income of the housewife, the entire income should be taken as dependency of the legal heirs without applying any cut much-less 1/3rd, as has been done in certain cases.*
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> *15. Since we had taken up the main case as well for decision, the compensation is, thus, ordered to be assessed @ Rs.3,000/- per month. While quantifying the*

same, it has to be multiplied by 12 which comes to Rs.36,000/- per annum and on applying multiplier of 14, it comes to Rs.5,04,000/-. The said amount is ordered to be paid along with Rs.5,000/- under the head of loss of estate and Rs.5,000/- as funeral expenses. The total compensation, thus, comes to Rs.5,14,000/- instead of Rs.3,46,000/-. Meaning thereby, the appellants would get an extra amount of Rs.1,68,000/- along with interest @ 6% per annum from the date of filing of the claim petition till its actual realization. However, rest of the terms would remain the same as settled by the learned Tribunal vide its order dated 04.01.2012."

Keeping in view the law laid down by the Division Bench, no deduction ought to have been applied. Further, as per the Ration Card (Ex.P10), the age of the deceased was 37 years. There is no reason to disbelieve the said document. Hence, taking the age of the deceased as 37 years based on Ex.P10, a multiplier of '15' is applied as per the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma** (supra). Further, an amount of Rs.25,000/- has been awarded by the Tribunal towards medical expenses based on the bills and the same is maintained. The compensation awarded under the conventional heads and under the head consortium would be required to be reworked keeping in view the law laid down by the Hon'ble Supreme Court in the cases of **Magma General Insurance Co. Ltd.** (supra); **Pranay Sethi** (supra) and **N. Jayasree** (supra). The claimant-appellants would be entitled to an amount of Rs.16,500/- towards loss of estate and Rs.16,500/- towards funeral expenses and further an amount of Rs.44,000/- each under the head consortium. Accordingly, the amount is recalculated as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income (notional)	Rs.5400/-
2	Annual income	[5400 x 12] =Rs.64800/-
3	Multiplier of 15	[64800x15] = Rs.9,72,000/-
4	Loss of estate	Rs.16,500/-
5	Funeral expenses	Rs.16,500/-
6	Loss of Consortium : (i) Parental (ii) Spousal's	 Rs.132000/- (44000 x 3) Rs.44000/- (Total Rs.1,76,000/-)
7	Medical expenses	Rs.25,000/-
8	**Total Compensation**	**Rs.12,06,000/-**
	Amount Awarded by the Tribunal	**Rs.7,79,800/-**
	Enhanced amount	**Rs.4,26,200/-**

The enhanced amount of compensation shall also attract interest @ 9% per annum from the date of filing of the claim petition till the realization of the entire amount. The enhanced amount is to be apportioned and invested as directed by the Tribunal.

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.

(ALKA SARIN)
JUDGE

01.03.2023
Yogesh Sharma

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