

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

252

FAO No.1758 of 2017

Date of Decision : 30.01.2023

Manjit Kaur and Others

....Appellants

VERSUS

Sukhpal Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jaideep Verma, 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 15.11.2016 passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as the 'Tribunal') whereby an amount of Rs.8,28,800/- has been awarded as compensation by the Tribunal on account of death of Kewal Singh (hereinafter referred to as the 'deceased'). Factum of the accident is not in dispute and hence the facts are not being reproduced for the sake of brevity.

The only grievance of the claimant-appellants is that no amount has been awarded towards loss of future prospects and that the amount awarded under the conventional heads as well as under the head of loss of consortium is on the lower side. Learned counsel has relied upon the judgments of the Hon'ble Supreme Court in cases of **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 of compensation has already been awarded and there is no scope for any further 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	Annual Income of the deceased	[7200 x 12] = Rs.86400
2	Annual dependency of the claimants after deduction of 1/3 rd	[86400 - 28800] = Rs.57600
3	Multiplier of 13	[57600 x 13] = Rs.748800
4	Loss of Consortium	Rs.50000
5	Funeral expenses	Rs.30000
	Total Compensation	Rs.828800

A perusal of the award reveals that no addition has been made towards loss of future prospects which, as per the law settled in the case of **Pranay Sethi** (*supra*), ought to have been 25% keeping in view the age of the deceased, who was 48 years of age. Even the amount awarded by the Tribunal under the conventional heads as well as under the head of loss of consortium is on the lower side. Accordingly, as per the law laid down by the Hon’ble Supreme Court in the cases of **Magma General Insurance Company Limited** (*supra*) and **N. Jayasree** (*supra*), the claimant-appellants would be entitled to an amount of Rs.16500/- towards loss of estate and Rs.16500/- towards the funeral expenses. Claimant-appellant no.1, i.e. the wife of the deceased, would be entitled to an amount of Rs.44000/- towards loss of spousal consortium. Claimant-appellant nos.2

and 3, who are the children of the deceased, would be entitled to an amount of Rs.44000/- each towards the loss of parental 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	[7200 x 12] = Rs.86400
2	Annual dependency of the claimants after deduction of 1/3 rd	[86400 - 28800] = Rs.57600
3	Future prospects @ 25%	[57600 + 14400] = Rs.72000
4	Multiplier of 13	[72000 x 13] = Rs.936000
5	<u>Loss of Consortium</u> (i) Spousal (ii) Parental (2 children)	Rs.44000 Rs.88000/- (44000 x 2) (Total Rs.132000)
6	Loss of Estate	Rs.16500
7	Funeral Expenses	Rs.16500
	Total Compensation	Rs.1101000
	Amount Awarded by the Tribunal	Rs.828800
	Enhanced amount	Rs.272200

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 apportioned equally amongst the claimant-appellants 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.

30.01.2023
jk

(ALKA SARIN)
JUDGE