

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.4082 of 2018

Date of Decision : 25.01.2023

Amarjit Kaur and Others

....Appellants

VERSUS

Murarilal Sain and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gopal Sharma, Advocate for the appellants.

Mr. Munish Goel, Advocate for respondent no.4.

ALKA SARIN, J. (Oral)

The present appeal has been preferred by the claimant-appellants against the award dated 20.12.2017 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as the 'Tribunal') whereby an amount of Rs.14,07,530/- has been awarded as compensation by the Tribunal on account of death of Harmesh Kumar (hereinafter referred to as the 'deceased').

Since the facts are not in dispute, the same are not being reproduced for the sake of brevity.

The only issue raised by the claimant-appellants is qua the quantum of compensation. Learned counsel for the claimant-appellants would contend that as per the Voter Card (Ex.C11), the age of the deceased was 38 years, however, the Tribunal while relying upon the postmortem report has taken the age of the deceased as 41 years. The Tribunal has assessed the income of the deceased as Rs.8524/- per month, however, the minimum wages for a skilled worker (driver) at the relevant time were Rs.8612/- per month. Learned counsel for the claimant-appellants would

further contend that the Tribunal has applied the multiplier of 14 keeping in view the age of the deceased as 41 years as per the postmortem report. However, as per the Voter Card (Ex.C11) the age of the deceased was 38 years at the time of his death and as per the law settled by the Hon’ble Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, a multiplier of 15 ought to have been applied. Similarly, taking the age of the deceased as 41 the Tribunal has allowed an addition of 25% towards loss of future prospects which as per the judgment of the Hon’ble Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]** ought to have been 40% keeping in view the age of the deceased as per his Voter Card (Ex.C11). It has further been contended that the amount awarded under the head of loss of consortium and the conventional heads is also on the lower side.

Per contra, learned counsel for respondent no.4-Insurance Company would contend that the age of the deceased has rightly been taken as 41 years as per the postmortem report and accordingly the amount awarded as compensation is as per the law laid down by the Hon’ble Supreme Court 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	Annual Income of the deceased	[8524 x 12] = Rs.102288
2	Annual dependency of the claimants after deduction of 1/4 th	[102288 - 25572] = Rs.76716

3	Future Prospects @ 25%	[76716 + 19179] = Rs.95895
4	Multiplier of 14	[95895 x 14] = Rs.1342530
5	Loss of Consortium	Rs.40000
6	Funeral expenses	Rs.15000
7	Transportation	Rs.10000
	Total Compensation	Rs.1407530

In the present case the claimant-appellants had produced on record the Voter Card of the deceased as Ex.C11 according to which the age of the deceased was 38 years at the time of the accident. There is no reason to disbelieve this piece of evidence. In view thereof, the age of the deceased ought to have been taken as 38 years. The minimum wages at the relevant time for an upper skilled worker in fact was Rs.8612/- per month. Taking the age of the deceased to be 38 years, a multiplier of 15 would be applicable. 1/4th deduction towards the dependency would have to be applied. The claimant-appellants would be entitled to an addition of 40% towards loss of future prospects keeping in view the age of the deceased as 38 years. A perusal of the award reveals that only an amount of Rs.40000/- was awarded towards loss of consortium and Rs.15000/- towards funeral expenses. The same also deserves to be modified. Accordingly, as per the law laid down by the Hon’ble Supreme Court in the cases of **Pranay Sethi (supra), 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]**, 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, the wife of the deceased, would be entitled to an amount of Rs.44000/- towards loss of spousal consortium. Claimant-appellant nos.2 to 5, who are the children of the deceased, would be entitled to an amount of Rs.44000/- each towards the loss of parental consortium and claimant-appellant no.6 i.e. the mother of the deceased, would be entitled to an amount of Rs.44000/- towards loss of filial consortium. The amount of Rs.10,000/- awarded by the Tribunal towards transportation is maintained.

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	[8612 x 12] = Rs.103344/-
2	Annual dependency of the claimants after deduction of 1/4 th	[103344 - 25836] = Rs.77508/-
3	Future prospects @ 40%	[77508 + 31003] = Rs.108511/-
4	Multiplier of 15	[108511 x 15] = Rs.1627665/-
5	<u>Loss of Consortium</u> (i) Spousal (ii) Parental (4 children) (iii) Filial	Rs.44000 Rs.176000/- (44000 x 4) Rs.44000 (Total Rs.264000)
6	Loss of Estate	Rs.16,500/-
7	Funeral Expenses	Rs.16,500/-
8	Transportation	Rs.10000/-
	Total Compensation	Rs.1934665/-
	Amount Awarded by the Tribunal	Rs.1407530/-
	Enhanced amount	Rs.527135/-

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

compensation to be paid to claimant-appellant nos.4 and 5 shall be invested in an FDR in a nationalized bank till they attain the age of majority. For the other claimant-appellants, the amount of compensation, if not disbursed, shall be divided equally amongst them. In case the amount has been disbursed as per the award passed by the Tribunal, in that case the enhanced amount of compensation shall be disbursed equally amongst them.

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.

25.01.2023
jk

(ALKA SARIN)
JUDGE

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