

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-809-2019 (O&M)
Date of decision : 27.03.2023

Dheeraj Bhargav & Ors. ... Appellant(s)

Versus

Aman & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.B. Sharma, Advocate for the appellants.
Mr. Sanjeev Kodan, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

CM-2961-CII-2019

This is an application for condonation of delay of 26 days in
filing the appeal.

For the reasons stated in the application, delay of 26 days in
filing the appeal is condoned.

CM stands disposed off.

FAO-809-2019

The present appeal has been preferred by the claimant-
appellants challenging the award dated 17.08.2018 passed by the Motor
Accident Claims Tribunal, Faridabad (hereinafter referred to as 'Tribunal').

The limited challenge in the present appeal is to 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 for the sake of brevity.

Learned counsel for the claimant-appellants would contend that the deceased in the present case was a Pharmacist and was earning a salary of Rs.18,948/- in May and June 2012 while working with QRG Hospital and that at the time of his death he was working with M/s Mangla Medicos and drawing a salary of Rs.20,000/- and hence, the Tribunal has wrongly assessed the income of the deceased as Rs.6,536/- per month (rounded off to Rs.6,540/-) on the basis of the minimum wages applicable at the time of the accident. Learned counsel would further contend that an addition of 40% has rightly been made towards future prospects and a multiplier of '15' has also correctly been applied. Further, a deduction of 1/4th towards dependency has also rightly been applied. However, the amounts awarded under the conventional head and under the head consortium are on the lower side and not as per the law laid down by the Hon'ble Supreme Court in the cases of **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]**, **N. Jayasree & Ors. Vs. Chola mandalam MS General Ins. Co. Ltd. [2021 ACJ 2685]** and **National Insurance Company Limited Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**.

Per contra, learned counsel for respondent No.2-Insurance Company has contended that the salary certificate from QRG Hospital was not proved on the record and though the deceased was stated to have been working with M/s Mangla Medicos for a period of almost 3 years prior to his death, however, not an iota of evidence was produced on the record to show

his employment or what he was earning. Learned counsel would further contend that the amount awarded is already on the higher side and there is no scope for any enhancement.

Heard.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.6,540/-
2	Annual income	[6,540 x 12] =Rs.78,480/-
3	Deduction 1/4 th	[78,480-19620] =Rs.58,860/-
4	Future prospects @ 40%	[58,860+23,544] = Rs.82,404/-
5	Multiplier of 15	[82,404 x15] = Rs.12,36,060/-
6	Loss of estate	Rs.15,000/-
7	Funeral expenses	Rs.15,000/-
8	Loss of consortium	Rs.40,000/-
9	Medical Bills	Rs.5,25,040/-
	Total Compensation	Rs.18,31,100/-
	Interest	7.5% per annum

The argument of learned counsel for the claimant-appellants that the deceased was earning a salary of Rs.18,948/- in May and June, 2012 while working as Pharmacist with QRG Hospital and at the time of his death he was earning Rs.20,000/- from M/s Mangla Medicos, where he was working, is sans any evidence. The salary slip and the letter of resignation qua QRG Hospital was not proved in accordance with law and there is no other evidence on the record to show the income of the deceased at the time of the accident. However, in view of the fact that the educational certificates

of the deceased were placed on the record which showed him to be a qualified Pharmacist hence, the income of the deceased is assessed as Rs.9,000/- per month being the minimum wages of a highly skilled worker at the time of the accident. As per the law laid down by the Hon’ble Supreme Court in the cases of **Pranay Sethi** (supra) and **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, an addition of 40% has rightly been made towards future prospects and a multiplier of ‘15’ has also correctly been applied by the Tribunal. Further, a deduction of 1/4th towards dependency has also rightly been applied. The amounts awarded under the conventional head and under the head consortium are on the lower side in view of the law laid down by the Hon’ble Supreme Court in the cases of **Magma General Insurance Co. Ltd.** (supra) and **N. Jayasree** (supra). Accordingly, the claimant-appellants would be entitled to an amount of Rs.44,000/- each under the head loss of consortium i.e. parental, filial and spousal and further they would also be entitled to Rs.16,500/- and Rs.16,500/- under the conventional heads. An amount of Rs.5,25,040/- awarded by the Tribunal towards medical bills/expenses is maintained. Accordingly, the re-worked out compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.9,000/-
2	Annual income	[9,000 x 12] =Rs.1,08,000/-
3	Deduction 1/4 th	[1,08,000-27,000] =Rs.81,000/-
4	Future prospects @ 40%	[81,000+32,400] = Rs.1,13,400/-
5	Multiplier of 15	[1,13,400x15]=Rs.17,01,000/-

6	Medical Bill	Rs.5,25,040/-
7	Loss of estate	Rs.16,500/-
8	Funeral expenses	Rs.16,500/-
9	Loss of Consortium : (i) Parental (ii) Filial (iii) Spousal	Rs.88,000/- (44,000x2) Rs.88,000/- (44,000x2) Rs.44,000/- (Total Rs.2,20,000/-)
	Total Compensation	Rs.24,79,040/-
	Amount Awarded by the Tribunal	Rs.18,31,100/-
	Enhanced amount	Rs.6,47,940/-

The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of the claim petition till realization. The amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

In view of the above, the appeal stands allowed and the award of the Tribunal is modified to the above extent. Pending applications, if any, also stands disposed off.

27.03.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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