

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

292

FAO No.10737 of 2018

Date of Decision : 06.02.2023

Geeta and Others

....Appellants

VERSUS

Randhir @ Dheera and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajiv Kumar Saini, Advocate for the appellants.

Mr. Rajesh Kumar Sharma, Advocate for respondent no.3

ALKA SARIN, J. (Oral)

The present appeal has been preferred by the claimant-appellants against the award dated 02.07.2018 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as the 'Tribunal') whereby an amount of Rs.16,54,744/- has been awarded to the claimant-appellants on account of death of Rajinder (hereinafter referred to as the 'deceased') in a motor vehicle accident with Canter bearing registration no.HR-46C-6567 (hereinafter referred to as the 'offending vehicle').

Learned counsel for the claimant-appellants would contend that the only dispute in the present case is *qua* the quantum of compensation awarded to the claimant-appellants under the head of loss of consortium. It is contended that the amount of compensation awarded under the other heads is as per the settled law. Learned counsel for the claimant-appellants has further contended that the Tribunal has only awarded Rs.40,000/- towards loss of consortium to claimant-appellant no.1 i.e. the wife of the deceased. However, in the present case there are three other claimants also who are two children and mother of the deceased and as per the judgments of the

Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130] and **N. Jayasree & Ors. vs. Chola mandalam M.S General Insurance Company Ltd. [2021 (4) RCR (Civil) 642]**, they are also entitled to compensation of Rs.44,000/- each towards loss of parental consortium and loss of filial consortium.

Learned counsel for respondent no.3 has stated that sufficient amount of compensation has already been awarded by the Tribunal and hence there is no scope of any enhancement.

Heard.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.10062
2	Future prospects @ 25%	[10062 + 2515] = Rs.12577
3	Monthly dependency of the claimants after deduction of 1/4 th	[12577 - 3144] = Rs.9433
4	Annual income of the deceased	[9433 X 12] = Rs.113196
5	Multiplier of 14	[113196 x 14] = Rs.1584744
6	Loss of Consortium	Rs.40000
7	Loss of Estate	Rs.15000
8	Funeral Expenses	Rs.15000
	Total Compensation	Rs.1654744
	Interest	6% per annum

The compensation has rightly been awarded under all the other heads as per the settled law. However, an amount of Rs.40,000/- has only been awarded to appellant no.1 i.e. wife of the deceased towards loss of consortium and no amount has been awarded to the children as well as mother of the deceased. Keeping in view the fact that the amount of

Rs.40,000/- already stands paid to appellant no.1 - wife of the deceased - towards loss of consortium and hence there would be no enhancement to the said amount. 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*), claimant-appellant nos.2 and 3, i.e. the children of the deceased, would be entitled to an amount of Rs.44000/- each towards loss of parental consortium and claimant-appellant no.4, who is the mother of the deceased, would be entitled to an amount of Rs.44000/- towards the loss of filial consortium.

In view of the above, the enhanced amount of compensation to which the appellant-claimants are entitled is re-calculated as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	[10062 x 12] =Rs.120744
2	Annual dependency of the claimants after deduction of 1/4 th	[120744 - 30186] = Rs.90558
3	Future prospects @ 25%	[90558 + 22640] = Rs.113198
4	Multiplier of 14	[113198 x 14] = Rs.1584772
5	Loss of Consortium (i) Spousal (ii) Parental (2 children) (iii) Filial	Rs.40000 Rs.88000 (44000 x 2) Rs.44000 (Total Rs.172000)
6	Loss of Estate	Rs.15000
7	Funeral Expenses	Rs.15000
	Total Compensation	Rs.1786772/-
	Amount Awarded by the Tribunal	Rs.1654744/-
	Enhanced amount	Rs.132028/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% from the date of

filing of the claim petition till realization of the entire amount. The enhanced amount shall be apportioned equally amongst the children and the mother of the deceased.

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.

06.02.2023
jk

(ALKA SARIN)
JUDGE

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