

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO-10624-2018 (O&M)
Date of decision : 25.01.2023**

Roshani & Ors.

... Appellant(s)

Versus

Vikram & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anil Kumar Gahlawat, Advocate for the appellants.

Mr. Sandeep Suri, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-27995-CII-2018

This is an application for condonation of delay of 25 days in filing the appeal.

For the reasons stated in the application, delay of 25 days in filing the appeal is condoned. CM stands disposed off.

MAIN CASE

The present appeal has been preferred by the claimant-appellants against the award dated 17.03.2018 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'Tribunal').

The only grievance of the claimant-appellants in the present case is qua 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.

Learned counsel for the claimant-appellants would contend that the amount awarded under the conventional heads is on the lower side and only an amount of Rs.40,000/- has been awarded towards consortium though there are three claimants i.e. one widow and two children. Learned counsel for the claimant-appellants has relied upon the judgments of the Hon’ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**; **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 has contended that as per the law laid in the judgments as referred by learned counsel for the claimant-appellants, the amounts have properly been awarded by the Tribunal and there is no scope of enhancement.

Heard.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.9,300/-
2	Annual income of the deceased	[9300 x 12] =Rs.111600/-
3	Deduction 1/3rd	[111600-37200] =Rs.74400/-
4	Future prospects @ 25%	[74400+18600] = Rs.93000/-
5	Multiplier of 15	[93000x15] = Rs.13,95,000/-
6	Loss of estate	Rs.15,000/-
7	Last Rites	Rs.15,000/-

8	Loss of Consortium to Widow	Rs.40,000/-
9	Total Compensation	Rs.14,65,000/-
	Interest	8% per annum

The deceased, in the present case, was 40 years of age. The Tribunal has assessed his income as Rs.9000/- per month, however, while calculating it erroneously took his income as Rs.9300/- per month. Hence, the income of the deceased is taken as Rs.9,000/- per month. A multiplier of ‘15’, future prospects @ 25% as well as deduction of 1/3rd have rightly been applied by the Tribunal and the same are maintained. The Tribunal has awarded an amount of Rs.15,000/- towards loss of estate and Rs.15,000/- towards last rites as well as Rs.40,000/- towards loss of consortium. However, as per the law laid down in the cases of **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimant-appellants would be entitled to Rs.44,000/- each under the head of consortium and Rs.16,500/- towards loss of estate and Rs.16,500/- towards funeral expenses. Accordingly, the modified amounts as awarded are as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.9,000/-
2	Annual income of the deceased	[9000 x 12] =Rs.108000/-
3	Deduction 1/3rd	[108000-36000] =Rs.72000/-
4	Future prospects @ 25%	[72000+18000] = Rs.90000/-
5	Multiplier of 15	[90000x15] = Rs.13,50,000/-
6	Loss of estate	Rs.16,500/-
7	Funeral expenses	Rs.16,500/-
8	Loss of Consortium : (i) Parental (ii) Spousal’s	Rs.88000/- (44000 x 2) Rs.44000/- (Total Rs.1,32,000/-)

9	Total Compensation	Rs.15,15,000/-
	Amount Awarded by the Tribunal	Rs.14,65,000/-
	Enhanced amount	Rs.50,000/-

The enhanced amount shall carry an interest @ 8% from the date of filing of the claim petition till realization. The amount shall be apportioned amongst the claimant-appellants as directed by the Tribunal. The claimant-appellant Nos.2 and 3 would be entitled to 50% of the enhanced amount of compensation plus consortium awarded to them.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified to the above extent. Pending applications, if any, also stand disposed off.

25.01.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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