2024:PHHC:053370

231-3

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO- 876-2019 (O&M)
Date of decision : 20.04.2024

Laxmi & Ors. ... Appellant(s)

Versus

Rohtash Kumar & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Keshav Pratap Singh, Advocate with
Mr. Ashok Malhotra, Advocate for the appellants.

Mr. Pankaj Mohan Kansal, Advocate for respondent No.3
(through hybrid mode).

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Panchkula vide award dated 13.10.2018.

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. Learned counsel for the claimant-appellants has not laid any challenge to the addition of future prospects to the extent of 25%, deduction of 1/4th as well as multiplier of '14'. The learned counsel for the claimant-

appellants has contended that the Tribunal has though assessed the income of the deceased as Rs.318/- per day, however, has calculated the income only for 23 days in a month (wrongly mentioned as 21 days) and hence reached a conclusion that monthly income would be Rs.7,314/- by excluding the income for seven non-working days. The learned counsel has further contended that monthly income ought to be assessed for the entire month i.e. Rs.9,540/- (Rs.318 x 30). It is further the contention of the learned counsel that the amounts awarded under the conventional heads as well as under the head 'loss of consortium' are also not in accordance with the law laid down by the Hon'ble Supreme Court. In support of his contentions, he has relied upon the judgments of the Hon'ble Supreme Court in the 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]**.

4. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement. It is further the contention of the learned counsel that income of the deceased has rightly been assessed by excluding seven non-working days in a month.

5. I have heard the learned counsel for the parties.

6. In the present case the Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.7,314/- (318x23)
2	Future prospects – 25%	[Rs.7,314 +1,828]=Rs.9,142/-
3	Deduction 1/4th	[Rs.9,142 - 2,285]=Rs.6,857/-
4	Annual Income	[Rs.6,857x12]=Rs.82,284/--
5	Multiplier - 14	[Rs.82,284x14]=Rs.11,51,976/-
6	Funeral expenses	Rs.15,000/-
7	Loss of estate	Rs.15,000/-
8	Loss of consortium	Rs.40,000/-
9	Total Compensation	**Rs.12,21,976/-**
	Interest	**7.5%**

7. In the present case, minimum wage has been assessed as Rs.318/- per day, however, the income of the deceased has been assessed as Rs.7,314/- per month (Rs.318 x 23) by excluding the income for seven days being Sundays and non-working days. The said reasoning given by the Tribunal is wholly erroneous. There is no basis for excluding Sundays and non-working days and the said deduction has been made only on the basis of guesswork, which is not sustainable in law. In view thereof, monthly income of the deceased is assessed as Rs.9,540/- (Rs.318 x 30). In the present case, since no challenge has been laid to the addition of future prospects to the extent of 25%, deduction of 1/4th as well as multiplier of '14' as awarded by the Tribunal, hence, the same are accordingly maintained. Further, the

amounts awarded under the conventional heads and under the head 'loss of consortium' are not as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra) and hence, the claimant-appellants would be entitled to Rs.18,000/- (Rs.15,000+20% increase) towards loss of estate and Rs.18,000/- (Rs.15,000+20% increase) towards funeral expenses and the claimant-appellants i.e. wife and four children of the deceased would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. The component of interest as awarded by the Tribunal @ 7.5% per annum as well as apportionment of amount of compensation amongst the claimants shall remain same. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	**Monthly Income**	Rs.9,540/-
2	**Annual Income**	[Rs.9,540x12]=Rs.1,14,480/-
3	**Deduction 1/4th**	[Rs.1,14,480-28,620]=Rs.85,860/-
4	**Future Prospects - 25%**	[Rs.85,860+21,465]=Rs.1,07,325/-
5	**Multiplier - 14**	[Rs.1,07,325x14]=Rs.15,02,550/-
6	**Loss of estate**	Rs.18,000/-
7	**Funeral expenses**	Rs.18,000/-
8	**Loss of consortium** (i) Parental (ii) Spousal	 [Rs.48,000/-x4]=Rs.1,92,000/- Rs.48,000/- (Total Rs.2,40,000/-)
	Total Compensation	**Rs.17,78,550/-**

8. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

9. 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.

20.04.2024 **(ALKA SARIN)**

Yogesh Sharma **JUDGE**

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