IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226 **FAO No.1523 of 1998**
Date of Decision : 03.05.2024

Gurnam Kaur and Another ....Appellants

VERSUS

Baldev Raj and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Tanya Kanwar, Advocate for
Mr. Keshav Pratap Singh, Advocate for the appellants.

Mr. Vinod Chaudhri, Advocate for respondent No.3.

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, Ambala (hereinafter referred to as the 'Tribunal') vide award dated 27.02.1998.

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. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Loss of dependency	Rs.700/- per month
2	Annual loss of dependency	[Rs.700 x 12] = Rs.8,400/-
3	Multiplier of 15	[Rs.8,400 x 15] = Rs.1,26,000/-
4	Funeral expenses	Rs.2,000/-
	Total Compensation	**Rs.1,28,000/-**

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was working as a mason and that the Tribunal has not assessed any income of the deceased. However, the Tribunal has taken the loss of dependency @ Rs.700/- per month; applied a multiplier of 15; and also awarded an amount of Rs.2,000/- towards funeral expenses. It is further the contention that the Tribunal has not made any addition towards loss of future prospects which, keeping in view the law laid down by the Hon'ble Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, ought to have been 40%. The deceased in the present case was 21 years of age. The Tribunal has applied a multiplier of 15, however, keeping in view the law laid down by the Hon'ble Supreme Court in case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]** a multiplier of 18 would be applicable. It is further the contention that the amount awarded under the conventional heads is not in consonance with the law laid down by Hon'ble Supreme Court in 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].** It has further been contended that the Tribunal has not awarded any interest on the amount so awarded.

5. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that in the absence of any evidence the loss of dependency @ Rs. 700/- per month has rightly been assessed by the Tribunal and sufficient amount of compensation has already been awarded by the Tribunal and there is no scope of any further enhancement.

6. Heard.

7. In the present case, though no income has been assessed by the Tribunal, however, the Tribunal has taken the loss of dependency as Rs.700/- per month and applied a multiplier of 15 and further awarded an amount of Rs.2,000/- towards funeral expenses. The deceased in the present case was 21 years of age and was stated to be working as a mason. Though there is no evidence on the record to the effect that the deceased was working as a mason, however, the income of the deceased ought to have been assessed as per the minimum wages prevailing at the relevant point of time, which were approximately Rs.1,800/- per month in the year 1996 and hence the income of the deceased is assessed as Rs.1,800/- per month.

8. The deceased in the present case was a bachelor and 50% deduction ought to have been applied in view of the law laid down by Hon'ble Supreme Court in case of **Pranay Sethi** (supra). Further, the Tribunal has applied a multiplier of 15, which keeping in view the age of the deceased being 21 years would be 18 as per the law laid down in case of **Sarla Verma** (supra). The claimant-appellants would also be entitled to an addition of 40% towards loss of future prospects. Further, the amount awarded under the conventional heads is on the lower side and no amount has been awarded under the head 'loss of consortium' and hence, 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), 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. The claimant-appellants, who are parents of the deceased, would also be entitled to

Rs.48,000/- each (Rs.40,000+20% increase) towards loss of filial consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.1,800/-
2	Annual income	[Rs.1,800 x 12] = Rs.21,600/-
3	Deduction 50%	[Rs.21,600 – 10,800] = Rs.10,800/-
4	Future prospects @ 40%	[Rs.10,800 + 4,320] = Rs.15,120/-
5	Multiplier 18	(Rs.15,120 x 18) = Rs.2,72,160/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Filial	Rs.96,000/- (48,000 x 2)
	Total Compensation	**Rs.4,04,160/-**

9. Since the Tribunal has not granted any interest on the amount so awarded, the amount of compensation awarded by the Tribunal and the enhanced amount of compensation shall carry 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.

10. 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.

(ALKA SARIN)
JUDGE

03.05.2024
jk

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