



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105

FAO No.2589 of 1998 (O&M)
Date of Decision : 17.05.2024

Surender Kumar and Others Appellants

VERSUS

Nur Mohd. and Others Respondents

CORAM: HON’BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Navyuggeet Brar, Advocate
Amicus Curiae for the appellants.

Mr. D.R. Bansal, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been filed by the claimant-appellants challenging the quantum of compensation awarded vide award dated 04.02.1998 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as ‘the Tribunal’).
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	Monthly income	Rs.1,000/-
2	Income after 1/3 rd deduction	Rs. 650/-
3	Annual Income	[Rs.650 x 12] = Rs.7,800/-
4	Multiplier of 16	[Rs.7,800 x 16] = Rs.1,24,800/-
	Total Compensation	Rs.1,24,800/-
	Interest	12% per annum



4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a housewife and that her income has erroneously been assessed as Rs.1,000/- per month. Learned counsel for the claimant-appellants would further contend that the income of the deceased ought to have been assessed as per minimum wages prevailing at the relevant point of time, which were Rs.1,417/- per month. It is further the contention of learned counsel for the claimant-appellants that the Tribunal has wrongly applied a multiplier of '16' whereas it ought to have been '17' keeping in view the age of the deceased being 28 years as per postmortem report (Ex.P2). Learned counsel for the claimant-appellants would further contend that no amount has been awarded by the Tribunal under the conventional heads as well as under the head 'loss of consortium'. In support of her contentions, 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, 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 further enhancement.

6. I have heard learned counsel for the parties.



7. In the present case the Tribunal has assessed the income of the deceased, who was a housewife, as Rs.1,000/- per month. A housewife does much more than a single labourer can do. Infact, she performs multiple functions in the house i.e. cooking for the family, cleaning the house, washing clothes and utensils, the list is endless. A housewife is also a caretaker of her children as well as all the members of the house are taken care of by a housewife. The minimum wages for an unskilled labourer at the relevant time were Rs.1,417/- per month. Taking the minimum wages of an unskilled labourer at the relevant time as Rs.1,417/-, the income of the deceased is assessed as Rs.1,417/- per month.

8. A Division Bench of this Court in the case of **Paramjit Singh & Anr. vs. Dilbagh Singh @ Bagga & Ors. [2014 (4) RCR (Civil) 895]** has held as under :

“14. We may hasten to add that in all those cases, referred to above, in which 1/3rd cut has been applied, no reasoning has been given by the learned Single Judge rather in the cases, referred to above, in which 1/3rd cut has not been applied, the learned Single Judge had observed that Rs.3,000/- per month is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction cannot be applied. In view of the aforesaid discussion, we are of the considered view that while calculating the notional income of the housewife, the entire income should be taken as dependency of the legal heirs without applying



any cut much-less 1/3rd, as has been done in certain cases.

15. Since we had taken up the main case as well for decision, the compensation is, thus, ordered to be assessed @ Rs.3,000/- per month. While quantifying the same, it has to be multiplied by 12 which comes to Rs.36,000/- per annum and on applying multiplier of 14, it comes to Rs.5,04,000/-. The said amount is ordered to be paid along with Rs.5,000/- under the head of loss of estate and Rs.5,000/- as funeral expenses. The total compensation, thus, comes to Rs.5,14,000/- instead of Rs.3,46,000/-. Meaning thereby, the appellants would get an extra amount of Rs.1,68,000/- along with interest @ 6% per annum from the date of filing of the claim petition till its actual realization. However, rest of the terms would remain the same as settled by the learned Tribunal vide its order dated 04.01.2012.”

9. Keeping in view the law laid down by the Division Bench in **Paramjit Singh's** case (supra), no deduction ought to have been applied. Multiplier of '16' has wrongly been applied by the Tribunal. As per postmortem report (Ex.P2), the deceased was 28 years of age at the time of accident and hence, a multiplier of 17 would be applicable. In the present case no amount has been awarded under the conventional heads as well as under the head 'loss of consortium' 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 further to an amount of Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium i.e. spousal and parental consortium. The amount of compensation to which the claimant-appellants are held entitled to, is re-calculated as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.1,417/-
2	Annual Income	[Rs.1,417 x 12] = Rs.17,004/-
3	Multiplier of 17	[Rs.17,004 x 17] = Rs.2,89,068/-
4	Funeral expenses	Rs.18,000/-
5	Loss of Estate	Rs.18,000/-
6	Loss of Consortium : (i) Spousal (ii) Parental	Rs.48,000/- Rs.1,44,000/- (Rs.48,000 x 3) Total: Rs.1,92,000/-
	Total Compensation	Rs.5,17,068/-

10. 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 as directed by the Tribunal.

11. In view of the above, the appeal filed by the claimants stands allowed and the impugned award is modified to the extent stated above. Pending applications, if any, also stand disposed off.

17.05.2024
jk

(ALKA SARIN)
JUDGE

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