

**FAO-1616-2002 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****228****FAO-1616-2002 (O&M)
Date of decision : 29.05.2024**

Sanjna and Others

... Appellant(s)

Versus

Kulwant Singh and Others

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARINPresent : Mr. Parvesh Kumar Banwal, Advocate and
Mr. Rakesh Chaudhary, Advocate for the appellants.Mr. Suvir Dewan, Advocate
for respondent No.3-Insurance Company.

Mr. Naresh Chander, Advocate for respondent No.5.

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, Jind (hereinafter referred to as 'Tribunal'), vide award dated 31.03.2001.

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.8,500/-
2	Deduction towards personal expenses	[Rs.8,500 – 3,000] = Rs.5,500/-
3	Annual income	[Rs.5,500 x 12] = Rs.66,000/-
4	Multiplier of 15	[Rs.66,000 x 15] = Rs.9,90,000/-
5	Loss of Estate	Rs.2,000/-
6	Funeral expenses	Rs.3,000/-
7	Loss of consortium	Rs.5,000/-
	Total Compensation	Rs.10,00,000/-
	Interest	9% per annum

4. Learned counsel for the claimant-appellants would contend that the income of the deceased has correctly been assessed as Rs.8,500/- per month, however, no addition has been made towards loss of future prospects which ought to have been 50% in the present case since the deceased fell in the category of salaried class. It has further been contended that a multiplier of 15 has been applied though as per the age of deceased, who was 32 years of age, the same ought to have been 16. Learned counsel has further contended that the amount awarded under the conventional heads as well as under the head ‘loss of consortium’ is 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 **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.**



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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*, the learned counsel for respondent No.3-Insurance Company would contend that in the present case there are 5 dependents and the Tribunal has applied a deduction of 1/5th which ought to have been 1/4th. It has further been contended that sufficient amount of compensation has already been granted.

6. Learned counsel for the claimant-appellants has fairly conceded that a deduction of 1/4th would be applicable and he has no objection if the same is applied in the present case.

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

8. In the present case the Tribunal has assessed the income correctly as Rs.8,500/- per month. However, the Tribunal has wrongly applied a deduction of 1/5th which ought to have been 1/4th keeping in view the fact that there were five dependents upon the deceased. No addition has been made towards loss of future prospects and hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 50% addition is made towards loss of future prospects. Multiplier of '15' has wrongly been applied and hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** (supra), a multiplier of '16' would be applicable keeping in view the age of the deceased being 32 years at the time of the accident. The amount awarded under the conventional



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heads and under the head ‘loss of consortium’ is 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 (widow, two children and parents of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.8,500/-
2	Annual Income	[Rs.8,500x12] = Rs.1,02,000/-
3	Deduction 1/4 th	[Rs.1,02,000 - 25,500] = Rs.76,500/-
4	Future Prospects - 50%	[Rs.76,500 + 38,250] = Rs.1,14,750/-
5	Multiplier - 16	[Rs.1,14,750x16] = Rs.18,36,000/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Parental (ii) Filial (iii) Spousal	[Rs.48,000/-2] = Rs.96,000/- [Rs.48,000/-2] = Rs.96,000/- Rs.48,000/- (Total Rs.2,40,000/-)
	Total Compensation	Rs.21,12,000/-

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% 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



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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.

29.05.2024
Ankur

(ALKA SARIN)
JUDGE

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