



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-438-2002 (O&M)
Date of Decision : 29.05.2024

Veena Bansal and Ors.Appellant(s)

VERSUS

Jayparkash L. Sawant Raigad Cooperative HSG
Society and Ors.Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Parth Sharma, Advocate for
Mr. Sachin Mittal, Advocate for the appellants.

Mr. Pradeep Goyal, 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, Gurgaon (hereinafter referred to as ‘Tribunal’) vide award dated 12.03.1998.
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	Monthly Income	Rs.10,908/-
2	Annual Income	[Rs.10,908x12]=Rs.1,30,896/-

3	Deduction 1/3 rd	[Rs.1,30,896-43,632]=Rs.87,264/-
4	Multiplier - 13	[Rs.87,264x13]=Rs.11,34,432/- Rounded off to Rs.11,34,450/-
5	Transportation Charges	Rs.2,000/-
6	Funeral expenses	Rs.5,000/-
7	Total Compensation	Rs.11,41,450/-

4. Learned counsel for the claimant-appellants has not laid any challenge to the income of the deceased and the multiplier applied by the Tribunal. The learned counsel for the claimant-appellants has, however, contended that the deduction of 1/3rd has wrongly been applied by the Tribunal, whereas it ought to have been 1/4th as there were four dependents. It is further the contention of the learned counsel that no addition has been made towards future prospects which ought to have been 25% keeping in view the age of the deceased as 46 years at the time of the accident. The learned counsel for the claimant-appellants would further contend that no amount has been awarded under the head ‘loss of consortium’ and further that the amount awarded under the conventional heads is also on the lower side. 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. On the asking of the Court, Mr. Pradeep Goyal, Advocate has put in appearance on behalf of the respondent No.3-Insurance Company.

The learned counsel for the 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.

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

7. In the present case, since no challenge has been laid to the income of the deceased assessed as Rs.10,908/- per month and the multiplier of '13' applied by the Tribunal, hence, the same are accordingly maintained. However, the Tribunal has wrongly applied deduction of $\frac{1}{3}$ rd which ought to have been $\frac{1}{4}$ th keeping in view the fact that there were four dependents. Further, no addition has been made towards future prospects and hence as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 25% addition is made towards future prospects keeping in view the age of the deceased as 46 years at the time of the accident. In the present case, no amount has been awarded under the head 'loss of consortium' and the amount awarded under the conventional heads is also on the lower side 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), 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 and three children 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.10,908/-
2	Annual Income	[Rs.10,908x12]=Rs.1,30,896/-
3	Deduction 1/4 th	[Rs.1,30,896-32,724]=Rs.98,172/-
4	Future Prospects - 25%	[Rs.98,172+24,543]=Rs.1,22,715/-
5	Multiplier - 13	[Rs.1,22,715x13]=Rs.15,95,295/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Parental (ii) Spousal	[Rs.48,000/-x3]=Rs.1,44,000/- Rs.48,000/- (Total Rs.1,92,000/-)
	Total Compensation	Rs.18,23,295/-

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.

29.05.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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