2024:PHHC:052214

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2672-2008 (O&M)
Date of decision : 18.04.2024

Mamta Sharma & Ors. ... Appellant(s)

Versus

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

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Binderjit Singh, Advocate for the appellants.

Mr. Deepak Gupta, Advocate for respondent Nos.1 and 2.

Mr. Lalit Garg, 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, Bathinda vide award dated 07.09.2007.

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.3,000/-
2	Annual Income	[Rs.3,000x12]=Rs.36,000/-

3	Deduction 1/3rd	[Rs.36,000-12,000]=Rs.24,000/-
4	Multiplier - 13	[Rs.24,000x13]=Rs.3,12,000/-
5	Funeral expenses	Rs.2,000/-
6	Loss of consortium	Rs.5,000/-
7	Total Compensation	**Rs.3,19,000/-**
	Interest	**9%**

4. Learned counsel for the claimant-appellants would contend that though the Tribunal has rightly assessed the income of the deceased as Rs.3,000/- per month, however, deduction of 1/3rd has wrongly been applied, whereas it ought to have been 1/4th as there were five dependents and further that multiplier of '13' has wrongly been applied, whereas it ought to have been '15' keeping in view the age of the deceased being 40 years at the time of the accident. It is further the contention of the learned counsel that no addition has been made towards future prospects which ought to have been 25% and 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. 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]**. Learned counsel for the claimant-

appellants has pointed out that the parents of the deceased i.e. appellant Nos.4 and 5 have since expired.

5. *Per contra*, the learned counsel for the respondents 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, though the Tribunal has rightly assessed the income of the deceased as Rs.3,000/- per month, however, multiplier of ‘13’ has wrongly been applied by the Tribunal and hence, as per the law laid down by the Hon’ble Supreme Court in the case of **Sarla Verma** (supra), multiplier of ‘15’ would be applicable keeping in view the age of the deceased being 40 years at the time of the accident. Deduction of 1/3rd has wrongly been applied which ought to have been 1/4th keeping in view the fact that there were five 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. 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 two children of the deceased would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. In the present case, since the parents of the deceased have since expired, hence no amount can be awarded towards filial consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.3,000/-
2	Annual Income	[Rs.3,000x12]=Rs.36,000/-
3	Deduction 1/4th	[Rs.36,000-9,000]=Rs.27,000/-
4	Future Prospects - 25%	[Rs.27,000+6,750]=Rs.33,750/-
5	Multiplier - 15	[Rs.33,750x15]=Rs.5,06,250/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Parental (ii) Spousal	 [Rs.48,000/-x2]=Rs.96,000/- Rs.48,000/-
		(Total Rs.1,44,000/-)
9	Funeral expenses	**Rs.6,86,250/-**

8. 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 (wife and children of the deceased) equally.

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.

18.04.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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