IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

249 **FAO No.3581 of 2008**
Date of Decision : 15.05.2024

Akbar and Another ....Appellants

VERSUS

Gulab and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sudhir Aggarwal, Advocate for the appellants.

None for respondent Nos.1 and 2.

Mr. Vipul Sharma, Advocate for
Mr. R.N. Singhal, Advocate for respondent No.3.

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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, Gurugram (hereinafter referred to as the 'Tribunal') vide award dated 18.08.2007.

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 has awarded a lump sum amount of Rs.2,25,000/- alongwith interest @ 7.5% per annum.

4. Learned counsel for the claimant-appellants would contend that PW5 – Irshad – had stepped into the witness-box and stated that he was

running a repair shop of dumper and hydraulic jack for the last 10 to 12 years and that 3 to 4 persons were working with him. He further stated that the deceased - Munfed - was also working with him as a mechanic and that he used to pay him Rs.6,500/- per month. It is further the case of the claimant-appellants that the deceased was a hydraulic mechanic of dumpers and was earning Rs.7,000/- per month. Learned counsel for the claimant-appellants would further contend that the Tribunal has neither applied a multiplier nor has made any addition towards loss of future prospects nor any amount has been awarded towards conventional heads as well as under the head 'loss of consortium'. In support of his contentions the 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that there is no evidence qua the income of the deceased and hence his income cannot be assessed as stated by PW5. It has further been contended that sufficient amount of compensation has already been granted by the Tribunal and there is no scope of any further enhancement.

6. Heard.

7. In the present case, the accident pertains to the year 2005. The income of a skilled worker at the relevant point of time was approximately

Rs.5,000/- per month. It has come on the record that the deceased was a mechanic. There is no reason to disbelieve the statement of PW5 - Irshad - qua the vocation of the deceased. However, in the absence of any salary certificate or salary slip, the income of the deceased is assessed as Rs.5,000/- per month. Since the deceased was a bachelor, deduction of 50% would have to be applied. Further, the Tribunal has neither applied any multiplier nor has made any addition towards future prospects. The deceased in the present case was 18 years of age and hence, as per the law laid down by the Hon'ble Supreme Court in cases of **Sarla Verma** (supra) and **Pranay Sethi** (supra), a multiplier of 18 would be applicable and an addition of 40% would have to be applied towards future prospects. Further, no amount has been awarded under the conventional heads as well as 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 and further to an amount of Rs.48,000/- each (Rs.40,000+20% increase) towards loss of filial consortium.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.5,000/-
2	Annual income	[Rs.5,000 x 12] = Rs.60,000/-
3	Deduction - 50%	[Rs.60,000 – 30,000] = Rs.30,000/-
4.	Future prospects @ 40%	[Rs.30,000 + 12,000] = Rs.42,000/-
5	Multiplier 18	(Rs.42,000 x 18) = Rs.7,56,000/-
6	Loss of estate	Rs.18,000/-

7	Funeral expenses	Rs.18,000/-
8	Loss of Filial Consortium :	Rs.96,000/- (48,000 x 2)
	Total Compensation	**Rs.8,88,000/-**

9. 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.

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

15.05.2024
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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO