

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

229-1

FAO No. 1063 of 2009 (O&M)
Date of Decision : 15.03.2024

Maksood and Others

....Appellants

VERSUS

Jaidev Giri and Others

....Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Digvijay, Advocate for
 Mr. Ashish Gupta, Advocate for the appellants.

 Mr. Harjinder Singh, Advocate for
 Mr. Sandeep Suri, Advocate
 for respondent No.3-Insurance Company.

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 16.10.2008.
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 awarded the following compensation :

Sr.No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,000/-
2	Annual income	[Rs.3,000 x 12] = Rs.36,000/-
3	Amount after applying deduction 1/3 rd	[Rs.36,000 - 12,000] = Rs.24,000/-
4	Multiplier of 8	[Rs.24,000 x 8] = Rs.1,92,000/-
5	Loss of love and affection	Rs.20,000/-
6	Funeral expenses	Rs.20,000/-

	Total Compensation	Rs.2,32,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that there is no dispute regarding the income of the deceased. The Tribunal has assessed the income of the deceased as Rs.3,000/- per month. Though, a deduction of 1/3rd has correctly been applied, however, a multiplier of 8 has wrongly been applied by the Tribunal, which ought to have been 9 keeping in view the age of the deceased, who was 56 years of age. It has further been contended that no addition has been made towards loss of future prospects which ought to have been 10% and that the amount awarded under the conventional heads as well as under the head ‘loss of consortium’ is also not as per the law laid down by the Hon’ble Supreme Court. In support of his contentions the learned counsel for the appellants 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. Cholanandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, the learned counsel for respondent No.3 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 the Tribunal has though rightly assessed the income of the deceased as Rs.3,000/- per month and also correctly applied a

deduction of 1/3rd, however, a multiplier of 8 has wrongly been applied by the Tribunal, which ought to have been 9. The Tribunal has not made any addition towards loss of future prospects. The deceased in the present case was 56 years of age and was working as a labourer and hence, as per the law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra), 10% addition is made towards loss of future prospects. Further, the amount awarded under the conventional 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 (wife and children of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.3,000/-
2	Annual Income	[Rs.3,000 x 12] = Rs.36,000/-
3	Deduction 1/3rd	[Rs.36,000 - 12,000] = Rs.24,000/-
4	Future Prospects - 10%	[Rs.24,000 + 2,400] = Rs.26,400/-
5	Multiplier – 9	[Rs.26,400 x 9] = Rs.2,37,600/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	<u>Loss of consortium</u> (i) Parental (ii) Spousal	[Rs.48,000x2] = Rs.96,000/- Rs.48,000/- Total Rs.1,44,000/-
	Total	Rs.4,17,600/-

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 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.

15.03.2024
jk

(ALKA SARIN)
JUDGE

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