R-444

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5093-2008 (O&M)
Date of decision : 24.01.2024

Bhola & Anr. ... Appellant(s)

Versus

Royal Sundaram Alliance Insurance Company Ltd. & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Chandanpreet Kaur Ahluwalia, Advocate (Amicus Curiae), for the appellants.

Mr. Ashwani Talwar, Advocate for respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present appeal has been filed by the claimant-appellants challenging the quantum of compensation awarded vide award dated 05.06.2008 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal').

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.2,000/-
2	Annual Income	[Rs.2,000/- x 12] = Rs.24,000/-
3	Deduction 1/3rd	[Rs.24,000- 8,000] = Rs.16,000/-

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4	Multiplier of 12	[Rs.16,000/- x 12] = Rs.1,92,000/-
	Total Compensation	**Rs.1,92,000/-**
	Interest	**6% per annum**

4. Learned counsel for the appellants would contend that the deceased in the present case was a housewife and that her income has erroneously been assessed as Rs.2,000/- per month. The learned counsel for the appellants would further contend that the income of the deceased ought to have been assessed as Rs.2,050/- which was the minimum wage at the relevant time. It is further the contention of the learned counsel that the Tribunal has wrongly applied the multiplier of 12, whereas it ought to have been '13' keeping in view the age of the deceased. The learned counsel would further contend that no amounts had been awarded by the Tribunal under the conventional heads as well as under the head 'loss of consortium'. In support of her 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*, the learned counsel for 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

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any enhancement.

6. I have heard learned counsel for the parties.

7. In the present case the Tribunal has assessed the income of the deceased, who was a housewife, as Rs.2,000/- per month. The minimum wage for an unskilled laborer at the relevant time was Rs.2,050/- per month. Taking the minimum wage of an unskilled laborer at the relevant time as Rs.2,050/-, the income of the deceased is assessed as Rs.2,050/- per month.

8. A Division Bench of this Court in the case of ***Paramjit Singh & Anr. vs. Dilbagh Singh @ Bagga & Ors. [2014 (4) RCR (Civil) 895]*** has held as under :

> *"14. We may hasten to add that in all those cases, referred to above, in which 1/3rd cut has been applied, no reasoning has been given by the learned Single Judge rather in the cases, referred to above, in which 1/3rd cut has not been applied, the learned Single Judge had observed that Rs.3,000/- per month is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction cannot be applied. In view of the aforesaid discussion, we are of the considered view that while calculating the notional income of the housewife, the entire income should be taken as dependency of the legal heirs without applying any cut much-less 1/3rd, as has been done in certain cases.*
>
> *15. Since we had taken up the main case as well for decision, the compensation is, thus, ordered to be assessed @ Rs.3,000/- per month. While quantifying the*

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> *same, it has to be multiplied by 12 which comes to Rs.36,000/- per annum and on applying multiplier of 14, it comes to Rs.5,04,000/-. The said amount is ordered to be paid along with Rs.5,000/- under the head of loss of estate and Rs.5,000/- as funeral expenses. The total compensation, thus, comes to Rs.5,14,000/- instead of Rs.3,46,000/-. Meaning thereby, the appellants would get an extra amount of Rs.1,68,000/- along with interest @ 6% per annum from the date of filing of the claim petition till its actual realization. However, rest of the terms would remain the same as settled by the learned Tribunal vide its order dated 04.01.2012."*

9. Keeping in view the law laid down by the Division Bench in ***Paramjit Singh's*** *case* (supra), no deduction ought to have been applied. The multiplier of 12 has wrongly been applied by the Tribunal and hence a multiplier of 13 is applied keeping in view the age of the deceased. In the present case no amounts had been awarded under the conventional heads and under the head 'loss of consortium' 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 (husband and son of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. The amount of compensation to which the claimant-appellants are held entitled to, is re-calculated as under :

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Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.2,050/-
2	Annual Income	[Rs.2,050 x 12] = Rs.24,600/-
3	Multiplier of 13	[Rs.24,600 x 13] = Rs.3,19,800/-
4	Funeral expenses	[Rs.15,000/- + 20%] = Rs.18,000/-
5	Loss of Estate	[Rs.15,000/- + 20%] = Rs.18,000/-
6	Loss of Consortium : (i) Spousal (ii) Children	 Rs.48,000/- Rs.48,000/- Total: Rs.96,000/-
7	**Total Compensation** **Amount Awarded by the Tribunal** **Enhanced amount**	**Rs.4,51,800/-** **Rs.1,92,000/-** **Rs.2,59,800/-**

10. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned as directed by the Tribunal.

11. In view of the above, the appeal filed by the claimants stands allowed and the impugned award is modified to the extent stated above. Pending applications, if any, also stand disposed off.

24.01.2024 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

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

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