

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2697 of 2009 (O&M)
Reserved on : 23.01.2024
Date of Decision: 08.02.2024

Smt. Uganta and OthersAppellants

VERSUS

Manoj Kumar and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Neeraj Khanna, Advocate (Amicus Curiae)
for the appellants.

Mr. Abhishek Goyal, Advocate
for respondent No.3-Insurance Company.

ALKA SARIN, J.

1. The present appeal has been filed by the claimant-appellants challenging the award dated 27.02.2009 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the ‘Tribunal’) whereby an amount of Rs.11,10,000/- was awarded as compensation to the claimant-appellants on account of death of Sirichand (hereinafter referred to as the ‘deceased’) in a motor vehicle accident with the Tralla bearing registration No.HR-45-A-1871 (hereinafter referred to as the ‘offending vehicle’).
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.9,000/-

2	Annual income	[Rs.9,000 x 12] = Rs.1,08,000/-
3	Amount after applying deduction 1/3 rd	[Rs.1,08,000 – 36,000] Rs.72,000/-
4	Multiplier of 15	[Rs.72,000 x 15] = Rs.10,80,000/-
5	Funeral expenses	Rs.10,000/-
6	Loss of consortium	Rs.20,000/-
	Total Compensation	Rs.11,10,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that it had been proved on the record that the deceased was working with RAC Rajasthan and was earning Rs.9,580/- per month. It has further been contended that the Tribunal has erred in assessing the income of the deceased as Rs.9,000/- per month. Learned counsel for the claimant-appellants has submitted that the deceased in the present case was 33 years of age and the Tribunal has applied a multiplier of 15, which ought to have been 16. The Tribunal has also applied a deduction of 1/3rd, which keeping in view the number of claimants and the law laid down by the Hon’ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]** and **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, ought to have been 1/4th. It is further the contention that no amount has been awarded towards loss of future prospects. As per the law laid down in case **Pranay Sethi (supra)** the claimant-appellants would be entitled to an addition of 50% towards loss of future prospects. Learned counsel for the claimant-appellants has further contended that no amount has been awarded towards loss of estate and only an amount of Rs.10,000/- has been awarded towards funeral expenses. The Tribunal has also awarded a lump sum amount of Rs.20,000/- towards loss of consortium, which is not in accordance with the

law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (*supra*), **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 sufficient amount of compensation has been awarded to the claimant-appellants and there is no scope of any further enhancement.

6. I have heard learned counsel for the parties.

7. In the present case though it had come on the record that the deceased was earning Rs.9,580/- per month, however, his income has been assessed as Rs.9,000/- per month after some deductions. It is not clear as to what were the deductions. In view thereof, this Court deems it appropriate to assess the income of the deceased as Rs.9,580/- per month which is the actual income of the deceased. The claimants in the present case are the wife, 3 minor children and parents of the deceased. Keeping in view the number of claimants, 1/4th deduction ought to have been applied in view of the law laid down by the Hon'ble Supreme Court in the cases of **Sarla Verma** (*supra*) and **Pranay Sethi** (*supra*). Further, no addition has been made towards loss of future prospects of the deceased. The claimants would be entitled to an addition of 50% towards loss of future prospects. The multiplier as per law laid down by the Hon'ble Supreme Court in the cases of **Sarla Verma** (*supra*) and **Pranay Sethi** (*supra*) ought to have been 16, however, it has erroneously been applied as 15 by the Tribunal. No amount has been awarded under the head loss of estate and the amount awarded

under the head funeral expenses is also on the lower side. A lump sum amount of Rs.20,000/- has been awarded towards loss of consortium. Under the conventional heads, 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 as per the law laid down in the cases of **Pranay Sethi** (*supra*) and **N. Jayasree** (*supra*). The minor children of the deceased would be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of parental consortium; The parents of the deceased would be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of filial consortium; and the wife of the deceased would be entitled to Rs.48,000/- (Rs.40,000+20% increase) towards loss of spousal consortium.

8. Accordingly, the reworked compensation is as under:

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.9,580/-
2	Annual income	[Rs.9,580 x 12] = Rs.1,14,960/-
3	Deduction 1/4 th	[Rs.1,14,960 - 28,740] = Rs.86,220/-
4	Future prospects @ 50%	[Rs.86,220 + 43,110] = Rs.1,29,330/-
5	Multiplier of 16	[Rs.1,29,330 x 16] = Rs.20,69,280/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium: (i) Spousal's (i) Parental (iii) Filial	Rs.48000/- [Rs.48,000 x 3] = Rs.1,44,000/- [Rs.48,000 x 2] = Rs.96,000/- (Total Rs.2,88,000/-)
	Total Compensation	Rs.23,93,280/- (rounded off to Rs.23,93,300/-)

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 enhanced amount of compensation shall be apportioned amongst 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

08.02.2024

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