

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.3990 of 2009
Date of Decision : 20.04.2024

Mohinder Kaur and AnotherAppellants

VERSUS

Gurmeet Singh and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Ravinder Kaur Manaise, Advocate for the appellants
Mr. Vikas Chatrath, 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, Gurdaspur (hereinafter referred to as the Tribunal) vide award dated 16.01.2009.
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.2,500/-
2	Annual income	[Rs.2,500 x 12] = Rs.30,000/-
3	Deduction 1/3 rd	[Rs.30,000 - 10,000] = Rs.20,000/-
4	Multiplier of 10	[Rs.20,000 x 10] = Rs.2,00,000/-

5	Funeral expenses	Rs.5,000/-
	Total Compensation	Rs.2,05,000/-
	Interest	6% per annum

4. Learned counsel for the claimant-appellants has not laid any challenge to the monthly income assessed by the Tribunal as well as application of deduction towards personal expenses of the deceased. However, learned counsel for the claimant-appellants would contend that a multiplier of ‘10’ has wrongly been applied by the Tribunal whereas it ought to have been ‘18’ keeping in view the age of the deceased, who was 24 years of age at the time of the accident. It is further the contention that no addition has been made by the Tribunal towards loss of future prospects and that the amount awarded under the conventional heads is not in accordance with the law. Further, no amount has been awarded under the head of ‘loss of consortium’. It is further the contention of the learned counsel that even the interest is on the lower side. 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. Chola mandalam 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 has been awarded by the Tribunal and there is no scope of any further enhancement.

6. Heard.

7. In the present case, since no challenge has been laid to the income of the deceased as well as to the deduction, hence, the income of the deceased is maintained as Rs.2,500/- per month as also the 1/3rd deduction. However, the Tribunal has wrongly applied a multiplier of 10 and hence as per the law laid down by the Hon'ble Supreme Court in case of **Sarla Verma** (supra), a multiplier of 18 would be applicable keeping in view the age of the deceased being 24 years of age. Further, no addition has been made towards loss of future prospects. Keeping in view the age of the deceased, an addition of 40% is made towards loss of future prospects. Further, the amount awarded under the conventional heads is not in accordance with the law laid down and that no amount has been awarded by the Tribunal 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 the claimant-appellants, who are mother and brother of the deceased, would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of filial consortium. Further, interest @ 6% per annum as awarded by the Tribunal is on the lower side and hence the same is enhanced to 7.5% per annum.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.2,500/-
2	Annual income	[Rs.2,500 x 12] = Rs.30,000/-
3	Deduction 1/3 rd	[Rs.30,000 - 10,000] = Rs.20,000/-
4	Future prospects @ 40%	[Rs.20,000 + 8,000] = Rs.28,000/-
5	Multiplier 18	[Rs.28,000 x 18] = Rs.5,04,000/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Filial	Rs.48,000/- (Rs.48,000 x 2) = Rs.96,000/-
	Total Compensation	Rs.6,36,000/-

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.

20.04.2024
jk

(ALKA SARIN)
JUDGE

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