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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2692-2010 (O&M)
Date of decision : 07.02.2024

Rajinder Kaur (deceased through LRs) & Ors. ... Appellant(s)

Versus

Anup Chander & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.S. Dhaliwal, Advocate for the appellants.
Mr. Vikas Mohan Gupta, 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, Ludhiana vide award dated 04.08.2009.
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	Annual income after deducting tax	Rs.1,25,000/-

2	Deduction to the extent of 1/3 rd	[Rs.1,25,000-41,667] = Rs.83,333/- (taken as Rs.80,000/-)
3	Multiplier of ‘11’	[Rs.80,000 x 11] = Rs.8,80,000/-
4	Funeral expenses	Rs.2,000/-
5	Loss of consortium	Rs.5,000/-
	Total Compensation	Rs.8,87,000/-
	Interest	9% per annum

4. Learned counsel for the claimant-appellants would contend that though the income of the deceased was rightly assessed as Rs.1,25,000/- per annum and a multiplier of ‘11’ as well as a deduction of 1/3rd was applied correctly, however, no amount has been awarded towards future prospects. It is further the contention of the learned counsel that the amount awarded under the conventional head as well as under the head ‘loss of consortium’ is also not in accordance with the law laid down by the Hon’ble Supreme Court. 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 **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 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.1,25,000/- per annum and also correctly applied a multiplier of ‘11’ as well as deduction of 1/3rd, however, no amount has been awarded towards future prospects and hence as per the law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra), 15% addition is made towards 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 (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	Annual Income	Rs.1,25,000/-
2	Deduction 1/3 rd	[Rs.1,25,000-41,667]=Rs.83,333/-
3	Future Prospects - 15%	[Rs.83,333+12,500]=Rs.95,833/-
4	Multiplier - 11	[Rs.95,833x11]=Rs.10,54,163/-
5	Loss of estate	Rs.18,000/-
6	Funeral expenses	Rs.18,000/-

7	Loss of consortium	
	(i) Parental	[Rs.48,000/-x3] Rs.1,44,000/-
	Total Compensation	Rs.12,34,163/-

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% 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-appellant Nos.2 to 4 (legal representatives of appellant No.1 who was widow of the deceased) in equal shares.

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.

07.02.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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