2024:PHHC:037259

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

548 **FAO No.1170 of 2011**
Date of Decision : 14.03.2024

Oriental Insurance Co. Ltd. ....Appellant

VERSUS

Anita Narula and Others ....Respondents

548-1 **FAO No.3172 of 2011**

Anita Narula ....Appellant

VERSUS

Gurpreet Singh and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satpal Dhamija, Advocate
for the appellant-Insurance Company in FAO-1170-2011 and
for respondent No.4-Insurance Company in FAO-3172-2011.

Mr. Pragun Jasuja, Advocate for
Mr. Sandeep Jasuja, Advocate
for the appellant in FAO-3172-2011 and
for respondent No.1 in FAO-1170-2011.

ALKA SARIN, J. **(Oral)**

1. This common order will dispose off both the above captioned appeals being FAO-1170-2011 filed by the Insurance Company and FAO-3172-2011 filed by the claimant challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as the 'Tribunal') vide award dated 16.11.2010.

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being adverted to for the sake of brevity.

3. The Tribunal awarded the following compensation :

Sr.No.	**Heads**	**Compensation Awarded**
1	Monthly income	Rs.19,500/-
2	Annual income	[Rs.19,500 x 12] = Rs.2,34,000/-
3	Deduction - 1/3rd	[Rs.2,34,000 - 78,000] = Rs.1,56,000/-
4	Multiplier - 13	[Rs.1,56,000 x 13] = Rs.20,28,000/-
5	Last Rites	Rs.6,000/-
6	Loss of Estate	Rs.4,000/-
	Total Compensation	**Rs.20,38,000/-**
	Interest	**8% per annum**

4. Learned counsel for the Insurance Company would contend that the Tribunal has awarded an amount of Rs.20,38,000/-, which is highly excessive and not in accordance with the law laid down by the Hon'ble Supreme Court. It is further the contention that the deceased in the present case was a bachelor and his mother is the only claimant. The Tribunal has erred in applying a deduction of 1/3rd which ought to have been 50%.

5. Learned counsel for the claimant would contend that the income of the deceased is not in dispute, however, the Tribunal has not made any addition towards loss of future prospects and keeping in view the age of the deceased, who was 25 years of age, 40% addition ought to have been made towards loss of future prospects. Further, a multiplier of 13 has been applied by the Tribunal keeping in view the age of mother of the deceased, however, the same ought to have been 18 keeping in view the age of the

deceased. It has further been contended that the amount awarded under the conventional heads is also not in accordance with the law and that no amount has been awarded under the head ‘loss of consortium’. In support of his contention the learned counsel for the claimant 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]**.

6. I have heard learned counsel for the parties.

7. The argument of learned counsel for the Insurance Company that the amount of compensation is in excess deserves to be rejected inasmuch as the amount awarded is actually on the lower side and not in accordance with the law laid down by the Hon’ble Supreme Court in the above referred judgments.

8. In the present case the income of the deceased is not in dispute. The Tribunal has assessed the income of the deceased as Rs.19,500/- per month on the basis of the evidence. However, the Tribunal has applied a deduction of 1/3rd which ought to have been 50% keeping in view the fact that the deceased was a bachelor and was survived by his mother, who is the only claimant in the present case. Further, the Tribunal has not made any addition towards loss of future prospects which, keeping in view the age of

the deceased who was 25 years of age, ought to have been 40%. The Tribunal has also erred in applying a multiplier of 13 keeping in view the age of the mother of the deceased whereas a multiplier of 18 would be applicable keeping in view the age of the deceased. Further, the amount awarded under the conventional head is not in accordance with the law and that no amount has been awarded 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 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 would also be entitled to Rs.48,000/- towards loss of filial consortium.

9. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly Income	Rs.19,500/-
2	Annual Income	[Rs.19,500 x 12] = Rs.2,34,000/-
3	Deduction – 50%	[Rs.2,34,000 – 1,17,000] = Rs.1,17,000/-
4	Future Prospects - 40%	[Rs.1,17,000 + 46,800] = Rs.1,63,800/-
5	Multiplier - 18	[Rs.1,63,800 x 18] = Rs.29,48,400/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	<u>Loss of consortium</u> (i) Filial	 [Rs.48,000
	Total	**Rs.30,32,400/-**

10. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 8% per annum from the date of filing of the claim petition till the realization of the entire amount.

11. In view of the above discussion, the appeal being FAO-1170-2011 filed by the Insurance Company and the appeal being FAO-3172-2011 filed by the claimant are partly allowed. The award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
14.03.2024 **JUDGE**
jk

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