IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

234 **FAO No.4210 of 2010**
Date of Decision : 16.04.2024

Bhinder Kaur and Others ....Appellants

VERSUS

Guru Prasad Mahatme and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Surbhi Rana, Advocate for
Ms. Ekta Thakur, Advocate for the appellants.

Mr. Rahul Pathania, Advocate for
Mr. R.C. Kapoor, 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, SAS Nagar Mohali (hereinafter referred to as the Tribunal) vide award dated 04.01.2010.

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.3,000/-
2	Annual income	[Rs.3,000 x 12] = Rs.36,000/-
3	Deduction 1/4th	[Rs.36,000 - 9,000] = Rs.27,000/-

4	Multiplier of 16	[Rs.27,000 x 16] = Rs.4,32,000/-
	Total Compensation	**Rs.4,32,000/-**
	Interest	**8% per annum**

4. Learned counsel for the claimant-appellants would contend that the deceased was running a dairy business and was earning Rs.15,000/- per month and also owned 02 trucks. Registration certificates of both the trucks were produced on the record as Ex.P2 and Ex.P3, however, the same have not been considered while assessing the income of the deceased and the income of the deceased was assessed as Rs.3,000/- per month on the basis of minimum wages. Learned counsel for the claimant-appellants would further contend that even though the trucks and the dairy business may have been inherited by the legal heirs, however, a Manager would have to be employed now to look after the business after the death of the deceased - Hari Singh. It is further the contention that no addition has been made by the Tribunal towards loss of future prospects and no amount has been awarded under the conventional heads as well as under the head of '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 **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]**. No challenge has been laid by learned counsel for the claimant-appellants to deduction towards personal expenses of the deceased and the multiplier applied by the Tribunal.

5. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that the income of the deceased has correctly been assessed as Rs.3,000/- per month in the absence of any evidence and that there is no scope of any further enhancement.

6. Heard.

7. In the present case the Tribunal has assessed the monthly income of the deceased as Rs.3,000/-. Registration certificates of 02 trucks (Ex.P2 and Ex.P3) were proved on the record, however, there is no evidence qua the dairy business and hence it can safely be assumed that the deceased was running a business of trucks. After the death of the deceased his family would have had to engage a manager to look after the business. The deceased would have been managing the business and hence his income ought to have been assessed as that of a skilled worker which, at the relevant point of time, was Rs.3,929/- per month. Hence, the income of the deceased is assessed as Rs.3,929/- per month. The Tribunal has rightly applied a deduction of 1/4th as also the multiplier, however, 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, no amount has been awarded under the conventional heads as well as 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 wife, children and parents of the deceased, would also be entitled to Rs.48,000/- each

(Rs.40,000+20% increase) towards loss of spousal, parental and filial consortium.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,929/-
2	Annual income	[Rs.3,929 x 12] = Rs.47,148/-
3	Deduction 1/4th	[Rs.47,148 - 11,787] = Rs.35,361/-
4	Future prospects @ 40%	[Rs.35,361 + 14,145] = Rs.49,506/-
5	Multiplier 16	[Rs.49,506 x 16] = Rs.7,92,096/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Parental (ii) Filial (iii) Spousal	 Rs.96,000/- (48,000 x 2) Rs.96,000/- (48,000 x 2) Rs.48,000/- (Total Rs.2,40,000/-)
	Total Compensation	**Rs.10,68,096/-**

9. 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. 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.

(ALKA SARIN)
JUDGE

16.04.2024
jk

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