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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. FAO-2592-2011 (O&M)
Date of Decision : 25.11.2024

Shriram General Insurance Company Ltd ... Appellant(s)

Versus

Anita & Ors ... Respondent(s)

2. FAO-3930-2016 (O&M)

Anita & Ors ... Appellant(s)

Versus

Sanjay Kumar & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajbir Singh, Advocate
for the appellant in FAO-2592-2011 and
for respondent No.3 in FAO-3930-2016.

Mr. Yamin, Advocate for
Mr. Nonish Kumar, Advocate
for the respondent Nos.1 to 4 in FAO-2592-2011
for the appellants in FAO-3930-2016.

None for the respondent Nos.5 and 6 in FAO-2592-2011 and
for the respondent Nos.1 and 2 in FAO-3930-2016.

<u>ALKA SARIN, J.</u> (Oral)

<u>CM-13308-CII-2016 IN FAO-3930-2016</u>

This is an application for condonation of delay of 2094 days in filing the appeal.

For the reasons stated in the application, delay of 2094 days in filing the appeal is condoned. However, the applicant-claimants shall not be entitled to any interest for the period of delay in filing the appeal. CM stands disposed off.

MAIN CASES

1. The present order shall dispose off the above noted two appeals. The parties are being referred to as Insurance Company, claimants and owner and driver for the sake of clarity. FAO No.2592 of 2011 has been filed by the Insurance Company aggrieved by the impugned award dated 01.05.2010 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'Tribunal') on the ground that the cover note was forged and fabricated, however, the same has been ignored by the Tribunal and the liability has been fastened upon the Insurance Company. FAO No.3930 of 2016 has been preferred by the claimants aggrieved by the quantum of compensation awarded by the Tribunal.

2. Since the factum of the accident is not disputed, the facts are not being adverted to for the sake of brevity.

3. Learned counsel for the Insurance Company in FAO-2592-2011 would contend that the cover note produced by the owner and driver was a forged and fabricated document. It is further the contention of the learned counsel that it was the specific stand of the Insurance Company that a DDR had been lodged regarding the cover note book bearing No.84911 to 84920 having been misplaced, at Police Station DLF Sector 29 Gurgaon and that the said cover note book was misused by some person and a false insurance cover note had been prepared in favour of the owner and driver of the offending vehicle and no insurance policy was issued qua the said vehicle.

4. None has put in appearance on behalf of the owner and driver of the offending vehicle despite service.

5. A perusal of the impugned award reveals that though in the

written statement a reference had been made regarding a DDR having been lodged regarding misplacing of the cover note book bearing No.84911 to 84920, however, no evidence was led qua the same. Infact, on issue No.3 a specific finding was recorded that no evidence was led regarding the loss of the cover note book and the DDR was also not proved on the record in accordance with law. In view thereof, the argument of the learned counsel for the Insurance Company cannot be accepted. Accordingly, the appeal filed by the Insurance Company stands dismissed.

6. Learned counsel for the claimants in FAO No.3930 of 2016 would contend that the income of the deceased has rightly been assessed as Rs.3,900/- per month and deduction of $1/4^{th}$ was rightly applied and so was the multiplier of '16'. However, no addition has been made towards future prospects which ought to have been 40%. It is further the contention of the learned counsel for the claimants that the amount awarded under the conventional heads 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, he 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]**.

7. Learned counsel for the Insurance Company in FAO-3930-2016 would contend that the appeal had been filed after a delay of 2094 days and, hence, no interest should be payable for the said period. It is further the

contention of the learned counsel that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

8. Heard.

9. In the present case the following compensation has been awarded by the Tribunal :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,900/-
2	Deduction 1/4th	[Rs.3,900 - 975] = Rs.2,925/-
3	Annual income	[Rs.2,925 x 12] = Rs.35,100/-
4	Multiplier of 16	[Rs.35,100 x 16] = Rs.5,61,600/-
5	Funeral expenses	Rs.5,000/-
6	Loss of estate	Rs.5,000/-
7	Loss of consortium	Rs.10,000/-
	Total Compensation	**Rs.5,81,000/-**
	Interest	**7.5% per annum**

10. In the present case, the income of the deceased has rightly been assessed as Rs.3,900/- as an unskilled worker in the absence of any evidence qua the income. Deduction to the extent of 1/4th has also rightly been applied and so has the multiplier of '16'. However, no addition has been made towards future prospects and hence as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition would have to be 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 claimants 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 claimants would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	**Monthly Income**	Rs.3,900/-
2	**Annual Income**	[Rs.3,900x12]=Rs.46,800/-
3	**Deduction 1/4th**	[Rs.46800-11700]=Rs.35,100/-
4	**Future Prospects - 40%**	[Rs.35100+14040]=Rs.49,140/-
5	**Multiplier - 16**	[Rs.49140x16]=Rs.7,86,240/-
6	**Loss of estate**	Rs.18,000/-
7	**Funeral expenses**	Rs.18,000/-
8	**Loss of consortium** (i) Parental (ii) Filial (iii) Spousal's	 [Rs.48,000/-x2] =Rs.96,000/- [Rs.48,000/-x1] =Rs.48,000/- Rs.48,000/- (Total Rs.1,92,000/-)
	Total Compensation	**Rs.10,14,240/-**

11. 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 claimants as directed by the Tribunal. However, the claimants shall not be entitled to any interest for the period of delay in filing the appeal.

12. In view of the above discussion, the appeal being FAO No.2592 of 2011 filed by the Insurance Company is dismissed and the appeal being FAO No.3930 of 2016 filed by the claimants is allowed. The impugned award stands modified to the extent discussed above. Pending applications, if any, also stand disposed off.

25.11.2024 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

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