

565
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2627-2011 (O&M)
Date of decision : 29.01.2024

Sapna and others ... Appellant(s)

Versus

Mukesh and another ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. R.C. Gupta, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. The present appeal has been filed by the claimant-appellants challenging the quantum of compensation awarded vide award dated 03.01.2011 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as ‘the Tribunal’).
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.7,936/-

2	Deduction 1/3 rd	(Rs.7,936-2,645) = Rs.5,291/-
3	Annual income	(Rs.5,291x12) = Rs.63,492/-
4.	Multiplier ‘17’	(Rs.63,492x17) = Rs.10,79,364/-
5	Funeral expenses	Rs.5,000/-
6.	Loss of estate	Rs.5,000/-
7.	Loss of consortium	Rs.10,000/-
8	Total Compensation	Rs.10,99,364/-
	Interest	9% per annum

4. Learned counsel for the appellants would contend that though the income of the deceased was rightly assessed and multiplier of 17 as well as deduction of 1/3rd were applied correctly, however, no amount has been awarded towards future prospects. It is further the contention of the learned counsel that the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are also not as per the law laid down by the Hon’ble Supreme Court. 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. Chola mandalam 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 rightly assessed the income of the deceased as Rs.7,936/- per month and also correctly applied the multiplier of 17 as well as 1/3rd deduction. 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), 40% addition is made towards future prospects keeping in view the age of the deceased being 28 years at the time of the accident. Further, the amounts awarded under the conventional heads and under the head ‘loss of consortium’ are also 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 (wife and parents 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	Monthly income	Rs.7,936/-
2	Deduction 1/3 rd	(Rs.7,936-2,645) = Rs.5,291/-
3	Annual income	(Rs.5,291x12) = Rs.63,492/-
4.	Future prospects @ 40%	[Rs.63,492+ 25,397] = Rs.88,889/-
5	Multiplier 17	(Rs.88,889x17) = Rs.15,11,113/-
6	Loss of estate	(Rs.15,000+20% increase) Rs.18,000/-
7	Funeral expenses	(Rs.15,000+20% increase) Rs.18,000/-

8	Loss of Consortium : (i) Filial (ii) Spousal's	Rs.96,000/- (48,000 x 2) Rs.48,000/- (Total Rs.1,44,000/-)
9	Total Compensation	Rs.16,91,113/-
10	Amount Awarded by the Tribunal	Rs.10,99,364/-
	Enhanced amount	Rs.5,91,749/-

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 claimants 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.

29.01.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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