

FAO-5381-2010 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5381-2010 (O&M)
Date of decision : 01.04.2024

Gunjan ... Appellant(s)
Versus
Ghansham and Others ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Respondent Nos.1 and 2 proceeded against ex parte
vide order dated 23.02.2010.

Mr. Vinod Gupta, Advocate for respondent No.3.

Mr. Amit Rao, Advocate for respondent Nos.4 and 5.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh vide award dated 03.04.2010.
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.4,000/-
2	Annual Income	[Rs.4,000x12] = Rs.48,000/-
3	Deduction 1/3 rd	[Rs.48,000-16,000] = Rs.32,000/-
4	Multiplier - 17	[Rs.32,000x17] = Rs.5,44,000/-
5	Funeral expenses	Rs.5,000/-
6	Loss of consortium	Rs.5,000/-
7	Total Compensation	Rs.5,54,000/-
	Interest	6% per annum

4. Learned counsel for the claimant-appellant would contend though the income of the deceased was rightly assessed as Rs.4,000/- and a multiplier of ‘17’ as well as deduction of 1/3rd was applied correctly, however, no addition has been made towards future prospects which ought to have been 40%. It is further the contention of the learned counsel 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 her contentions she 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. Cholanandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, the learned counsel for respondent No.3-Insurance Company as well as respondent Nos.4 and 5 have 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.4,000/- per month and also correctly applied a multiplier of 17 as well as deduction of 1/3rd, 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 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-appellant 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-appellant (wife of the deceased) would also be entitled to Rs.48,000/- (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.4,000/-
2	Annual Income	[Rs.4,000x12] = Rs.48,000/-
3	Deduction 1/3rd	[Rs.48,000-16000] = Rs.32,000/-
4	Future Prospects - 40%	[Rs.32,000+12,800] = Rs.44,800/-
5	Multiplier - 17	[Rs.44,800x17] = Rs.7,61,600/-
6	Loss of estate	Rs.18,000/-

7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Spousal	Rs.48,000/-
	Total Compensation	Rs.8,45,600/-

8. 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.
9. 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.

01.04.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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