

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

595

FAO No.5232 of 2011
Date of Decision : 13.03.2024

Neeru Bala and OthersAppellants

VERSUS

Suraj Bhan and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Madan Gupta, Advocate for the appellants.

Mr. Rohit Kataria, Advocate for
Ms. Anamika Mehra, 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, Kaithal (hereinafter referred to as the ‘Tribunal’) vide award dated 29.09.2010.
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 awarded the following compensation :

Sr.No.	Heads	Compensation Awarded
1	Monthly income	Rs.4,500/-
2	Annual income	[Rs.4,500 x 12] = Rs.54,000/-
3	Amount after applying deduction 1/3 rd	[Rs.54,000 - 18,000] = Rs.36,000/-
4	Multiplier of 12	[Rs.36,000 x 12] = Rs.4,32,000/-
	Total Compensation	Rs.4,52,000/-
	Interest	7.5% per annum

3. Learned counsel for the claimant-appellants would contend that though the income of the deceased was rightly assessed as Rs.4,500/- per month and a deduction of $1/3^{\text{rd}}$ was applied correctly, however, the Tribunal has wrongly applied a multiplier of 12, which ought to have been 18 keeping in view the age of the deceased, who was 24 years of age at the time of accident. It is further the contention that no addition has been made towards loss of future prospects which ought to have been 40% and that the amount awarded under the conventional heads as well as under the head 'loss of consortium' is also not as per the law laid down by the Hon'ble Supreme Court. In support of his contentions the learned counsel for the 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]**.

4. *Per contra*, the learned counsel for respondent No.3 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.

5. I have heard the learned counsel for the parties.

6. In the present case the Tribunal has though rightly assessed the income of the deceased as Rs.4,500/- per month and also correctly applied a deduction of $1/3^{\text{rd}}$, however, a multiplier of 12 has wrongly been applied in the present case. The deceased in the present case was 24 years of age at the time of accident and hence, a multiplier of 18 would be applicable. The

Tribunal has not made any addition towards loss of 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 loss of 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-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 (wife and parents of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

7. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.4,500/-
2	Annual Income	[Rs.4,500 x 12] = Rs.54,000/-
3	Deduction 1/3rd	[Rs.54,000 - 18,000] = Rs.36,000/-
4	Future Prospects - 40%	[Rs.36,000 + 14,400] = Rs.50,400/-
5	Multiplier - 18	[Rs.50,400 x 18] = Rs.9,07,200/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	<u>Loss of consortium</u> (i) Filial (ii) Spousal	[Rs.48,000x2] = Rs.96,000/- Rs.48,000/- Total Rs.1,44,000/-
	Total	Rs.10,87,200/-

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 realization of the entire amount.

The amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

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.

(ALKA SARIN)
JUDGE

13.03.2024
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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO