

589-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5509-2011 (O&M)
Date of decision : 29.01.2024

Tarsem Chand & Anr. ... Petitioner(s)

Versus

Raj Kumar & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vikas Mohan Gupta, Advocate for the appellants.
Ms. Shaveta Sanghi, Advocate for respondent Nos.1 and 3.
Mr. V.K. Garg, 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 01.03.2011 passed by the Motor Accident Claims Tribunal, Mansa (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	Annual Income	Rs.20,000/-
2	Multiplier of 7	[Rs.20,000 x 7] = Rs.1,40,000/-
3	Funeral expenses	Rs.5,000/-
4.	Loss of love and affection	Rs.5,000/-
5	Total Compensation	Rs.1,50,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a housewife and that her income has erroneously been assessed as Rs.20,000/- per annum. The learned counsel for the claimant-appellants would further contend that the income of the deceased ought to have been assessed as Rs.3,200/- per month which was the minimum wage at the relevant time. The learned counsel would further contend that though the multiplier of ‘7’ has rightly been applied by the Tribunal, however, the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are on the lower side. In support of his 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]**.

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 learned counsel for the parties.

7. In the present case the Tribunal has assessed the income of the deceased, who was a housewife, as Rs.20,000/- per annum (Rs.1,666/- per month). The minimum wage for an unskilled laborer at the relevant time was Rs.3,200/- per month. Taking the minimum wage of an unskilled laborer at the relevant time as Rs.3,200/- per month, the income of the deceased is assessed as Rs.3,200/- per month. The multiplier of '7' has rightly been applied by the Tribunal keeping in view the age of the deceased. In the present case the amounts awarded under the conventional heads and under the head 'loss of consortium' are 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 (children of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. The amount of compensation to which the claimant-appellants are held entitled to, is re-calculated as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,200/-
2	Annual Income	[Rs.3,200 x 12] = Rs.38,400/-
3	Multiplier of 7	[Rs.38,400 x 7] = Rs.2,68,800/-
4	Funeral expenses	[Rs.15,000/- + 20%] = Rs.18,000/-
5	Loss of Estate	[Rs.15,000/- + 20%] = Rs.18,000/-
6	Loss of Consortium : (i) Parental	Rs.96,000/- (Rs.48,000 x2)
7	Total Compensation	Rs.4,00,800/-
	Amount Awarded by the Tribunal	Rs.1,50,000/-
	Enhanced amount	Rs.2,50,800/-

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. The amount shall be apportioned as directed by the Tribunal.

9. In view of the above, the appeal filed by the claimant-appellants stands allowed and the impugned award 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