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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-162-2012 (O&M)
Date of decision : 31.01.2024

Bhupinder Kaur & Ors. ... Appellant(s)

Versus

Maj. Gen Jaswant Singh & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Ashwani Talwar, Advocate with
Mr. Satpal Dhamija, 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, Mohali, vide award dated 04.10.2011.

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.7,500/-
2	Annual income	[Rs.7,500 x 12] = Rs.90,000/-
3	Deduction 1/3rd	[Rs.90,000 – 30,000] = Rs.60,000/-

4	Multiplier of 7	[Rs.60,000 x 7] = Rs.4,20,000/-
5	Funeral expenses	Rs.5,000/-
6	Love and affection	Rs.10,000/- (Rs.5,000x2)
7.	Medical expenses	Rs.54,525/-
	Total Compensation	**Rs.4,99,525/-**
	Interest	**6% per annum**

4. Learned counsel for the claimant-appellants has contended that though the income of the deceased was rightly assessed as Rs.7,500/- per month and 1/3rd deduction was applied correctly, however, a multiplier of '7' has wrongly been applied by the Tribunal inasmuch as the date of birth of the deceased was 30.11.1945 as mentioned in Income Tax Return (Ex.C37) and as on the date of the accident i.e. 25.03.2006 he was about 60 years of age and hence a multiplier of '9' would be applicable. It is further the contention of the learned counsel that that no amount has been awarded towards future prospects 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 claimant-appellants has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121], 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 the learned counsel for the parties.

7. In the present case, the Tribunal has rightly assessed the income of the deceased as Rs.7,500/- per month and also correctly applied deduction to the extent of $1/3^{rd}$. However, a multiplier of ‘7’ has wrongly been applied as the date of birth of the deceased was 30.11.1945 as mentioned in the Income Tax Return (Ex.C37) and as on the date of the accident i.e. 25.03.2006 he was about 60 years of age and hence a multiplier of ‘9’ would be applicable as per the law laid down by the Hon’ble Supreme Court in the case of **Sarla Verma** (supra). No future prospects can be granted keeping in view the age of the deceased which was above 60 years. 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 two children of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. An amount of Rs.54,525/- awarded by the Tribunal towards medical expenses is also maintained.

8. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly income	Rs.7,500/-
2	Annual income	[Rs.7,500 x 12] = Rs.90,000/-

3	Deduction 1/3rd	[Rs.90,000 – 30,000] = Rs.60,000/-
4.	Multiplier 9	(Rs.60,000 x 9) = Rs.5,40,000/-
5	Loss of estate	(Rs.15,000+20% increase) Rs.18,000/-
6	Funeral expenses	(Rs.15,000+20% increase) Rs.18,000/-
7	Loss of Consortium : (i) Parental (ii) Spousal's	 Rs.96,000/- (48,000 x 2) Rs.48,000/- (Total Rs.1,44,000/-)
8	Medical expenses	Rs.54,525/-
9	**Total Compensation**	**Rs.7,74,525/-**
	Amount Awarded by the Tribunal	**Rs.4,99,525/-**
	Enhanced amount	**Rs.2,75,000/-**

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% 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 claimant-appellants 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.

31.01.2024 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

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