

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**603****FAO No.6091 of 2011****Date of Decision : 30.01.2024**

Bhupinder Singh

....Appellant

VERSUS

Gorey Khan and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shivam Chaudhary, Advocate for the appellant.

Mr. Radhe Shyam, Advocate
for respondent No.3-Insurance Company.**ALKA SARIN, J. (Oral)**

1. The present appeal has been filed by the claimant-appellant challenging the award dated 09.12.2010 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as the 'Tribunal') whereby an amount of Rs.1,73,000 /- was awarded as compensation to the claimant-appellant on account of death of Tejinder Singh (hereinafter referred to as the 'deceased') in a motor vehicle accident with a bus bearing registration No.DL-1-PB-7180 (hereinafter referred to as the 'offending vehicle').

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. Learned counsel for the claimant-appellant would contend that the deceased was 17 years of age at the time of his death. The accident took place in the year 2007 and further that the deceased was a student of 10+1

class at the time of his death, hence, as per the law laid down by 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]**, keeping in view of the age of the deceased, a multiplier of '18' ought to have been applied and an addition @ 40% ought to have been made towards loss of future prospects. It is further the contention that no amount has been awarded towards loss of estate and loss of consortium.

4. *Per contra*, learned counsel for the respondent No.3-Insurance Company has contended that the amount awarded is just and proper and there is no scope of enhancement.

5. Heard.

6. The Tribunal in the present case awarded an amount of Rs.1,73,000/- (Rs.1,68,000/- towards loss of dependency and Rs.5,000/- towards funeral expenses and transportation) along with interest @ 6% from the date of filing of the claim petition till the payment of compensation. The deceased in the present case was 17 years of age. In the case of **Kajal Vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27]**, though it was a case of injury, the income of the minor who was aged 12 years was assessed on the basis of the minimum wages. In the present case at the time of the accident the minimum wage was Rs.3,842/- per month. Being a bachelor, deduction of 50% would have to be applied as per the settled law. An addition of 40% would have to be made towards 'loss of future prospects'. The Tribunal has

applied the multiplier keeping in view the age of the parent of the deceased which is contrary to the law laid down. A multiplier of ‘18’ would be applicable keeping in view the age of the deceased. Further, as per the settled law an amount of Rs.18,000/- (Rs.15,000+20% increase) would be payable towards ‘loss of estate’ and Rs.18,000/- (Rs.15,000+20% increase) towards ‘funeral expenses’. The claimant-appellant would also be entitled to Rs.48,000/- (Rs.40,000+20% increase) towards ‘loss of filial consortium’.

7. Accordingly, the modified amounts as awarded are as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,842/-
2	Annual income	[Rs.3,842 x 12] = Rs.46,104/-
3	Deduction 50%	[Rs.46,104 – 23,052] = Rs.23,052/-
4	Future prospects @ 40%	[Rs.23,052 + 9,221] = Rs.32,273/-
5	Multiplier of 18	[Rs.32,273 x 18] = Rs.5,80,914/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Filial Consortium	Rs.48000/-
9	Total Compensation	Rs.6,64,914/- (rounded off to Rs.6,65,000/-

8. 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.

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.

30.01.2024
jk

(ALKA SARIN)
JUDGE

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