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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6547-2011 (O&M)
Date of decision : 30.01.2024

Choto Devi & Anr. ... Appellant(s)

Versus

Balbir Singh & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajit Sihag, Advocate for the appellants.
Mr. R.K. Bashamboo, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-26430-CII-2011

1. This is an application for condonation of delay of 59 days in filing the appeal.
2. For the reasons stated in the application, delay of 59 days in filing the appeal is condoned. CM stands disposed off. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

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3. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Hisar vide award dated 22.03.2011.
4. 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.

5. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.5,500/-
2	Annual income	[Rs.5,500 x 12] = Rs.66,000/-
3	Deduction 1/2	[Rs.66,000 - 33,000] = Rs.33,000/-
4	Multiplier of 9	[Rs.33,000 x 9] = Rs.2,97,000/-
5	Transportation and last rites	Rs.10,000/-
6	Love and affection	Rs.10,000/-
7	Total Compensation	Rs.3,17,000/-
	Interest	6% per annum

6. Learned counsel for the claimant-appellants would contend that though the income of the deceased was rightly assessed as Rs.5,500/- per month and 1/2 deduction was applied correctly, however, multiplier of ‘9’ has wrongly been applied by the Tribunal, whereas it ought to have been ‘16’ keeping in view the age of the deceased being 35 years at the time of the accident. It is further the contention of the learned counsel that no amount has been awarded towards future prospects and that the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642].

7. *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.

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

9. In the present case, the Tribunal has though rightly assessed the income of the deceased as Rs.5,500/- per month and also correctly applied deduction to the extent of 1/2, however, a multiplier of '9' has wrongly been applied and hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** (supra), multiplier of '16' is applied keeping in view the age of the deceased being 35 years at the time of the accident. Further, no amount has been awarded 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 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 (parents of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

10. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.5,500/-
2	Annual income	[Rs.5,500 x 12] = Rs.66,000/-
3	Deduction ½	[Rs.66,000 - 33,000] = Rs.33,000/-
4.	Future prospects @ 40%	[Rs.33,000+ 13,200] = Rs.46,200/-
5	Multiplier 16	(Rs.46,200x16) = Rs.7,39,200/-
6	Loss of estate	(Rs.15,000+20% increase) Rs.18,000/-
7	Funeral expenses	(Rs.15,000+20% increase) Rs.18,000/-
8	Loss of Consortium : (i) Filial	Rs.96,000/- (48,000 x 2)
9	Total Compensation	Rs.8,71,200/-
10	Amount Awarded by the Tribunal	Rs.3,17,000/-
	Enhanced amount	Rs.5,54,200/-

11. 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 equally. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

12. 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
Yogesh Sharma

(ALKA SARIN)
JUDGE

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