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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6930-2011 (O&M)
Date of decision : 13.03.2024

Shiv Shekhar Pathak & Anr. ... Appellant(s)

Versus

Jainender @ Jaini & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jagdish Manchanda, Advocate for the appellants.
None for respondent No.2.

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, Faridabad vide award dated 26.07.2011.
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.4,000/-

2	Annual Income	[Rs.4,000x12]=Rs.48,000/-
3	Deduction 50%	[Rs.48,000-24,000]=Rs.24,000/-
4	Multiplier – 9	[Rs.24,000x9]=Rs.2,16,000/-
5	Funeral expenses	Rs.10,000/-
6	Love and affection	Rs.5,000/-
7	Total Compensation	Rs.2,31,000/-
	Interest	6% per annum

4. Learned counsel for the claimant-appellants would contend that though the income of the deceased was rightly assessed as Rs.4,000/- per month and 50% deduction was applied correctly, however, multiplier ‘9’ has wrongly been applied by the Tribunal, whereas it ought to have been ‘18’ keeping in view the age of the deceased being 24 years at the time of the accident. It is further the contention of the learned counsel that no addition has been made towards 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 in accordance with the law laid down by the Hon’ble Supreme Court. In support of his contentions he 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. None has put in appearance on behalf of respondent No.2- Insurance Company. Accordingly, it is proceeded against *ex parte*.

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

7. In the present case, the Tribunal has though rightly assessed the income of the deceased as Rs.4,000/- per month and also correctly applied deduction to the extent of 50%, however, multiplier '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 '18' would be applicable keeping in view the age of the deceased being 24 years at the time of the accident. Further, no addition has been made 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 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 (parents of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.4,000/-
2	Annual Income	[Rs.4,000x12]=Rs.48,000/-
3	Deduction 50%	[Rs.48,000-24,000]=Rs.24,000/-
4	Future Prospects - 40%	[Rs.24,000+9,600]=Rs.33,600/-
5	Multiplier - 18	[Rs.33,600x18]=Rs.6,04,800/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Filial	[Rs.48,000/-x2] =Rs.96,000/-
	Total Compensation	Rs.7,36,800/-

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. 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.

13.03.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE
NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO