

616
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-7060-2011 (O&M)
Date of decision : 30.01.2024

Baljinder Rani & Ors. ... Appellant(s)

Versus

Krishan Joshi & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mohit Garg, Advocate for the appellants.

Mr. Vivek Suri, Advocate for
Mr. V. Ramswaroop, 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, Sangrur vide award dated 10.02.2011.
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.4,500/-
2	Annual income	[Rs.4,500 x 12] = Rs.54,000/-

3	Deduction 1/3rd	[Rs.54,000 - 18,000] = Rs.36,000/-
4	Multiplier of 15	[Rs.36,000 x 15] = Rs.5,40,000/-
5	Last rites	Rs.5,000/-
6	Loss of estate	Rs.5,000/-
7	Total Compensation	Rs.5,50,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that though the income of the deceased was rightly assessed as Rs.4,500/- per month and multiplier of ‘15’ was applied correctly, however, deduction of 1/3rd has wrongly been applied by the Tribunal, whereas it ought to have been 1/4th as there were four dependents upon the deceased. It is further the contention of the learned counsel that no amount has been awarded towards future prospects as well as under the head ‘loss of consortium’ and further that the amount awarded under the conventional heads is also 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 the learned counsel for the parties.

7. In the present case, the Tribunal has though rightly assessed the income of the deceased as Rs.4,500/- per month and also correctly applied a multiplier of ‘15’, however, deduction of 1/3rd has wrongly been applied which ought to have been 1/4th keeping in view the fact that there were four dependents upon the deceased. 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 amount awarded under the conventional heads is on the lower side and no amount has been awarded under the head ‘loss of consortium’ and hence 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), 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, two children and mother of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4,500/-

2	Annual income	[Rs.4,500 x 12] = Rs.54,000/-
3	Deduction 1/4 th	[Rs.54,000 - 13,500] = Rs.40,500/-
4.	Future prospects @ 40%	[Rs.40,500 + 16,200] = Rs.56,700/-
5	Multiplier 15	(Rs.56,700 x 15) = Rs.8,50,500/-
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) Parental (ii) Filial (iii) Spousal's	Rs.96,000/- (48,000 x 2) Rs.48,000/- Rs.48,000/- (Total Rs.1,92,000/-)
9	Total Compensation	Rs.10,78,500/-
10	Amount Awarded by the Tribunal	Rs.5,50,000/-
	Enhanced amount	Rs.5,28,500/-

9. 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 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.

30.01.2024
Yogesh Sharma

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