

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

656

FAO No.3437 of 2012
Date of Decision : 01.04.2024

Neeru and Others

....Appellants

VERSUS

Jiwan Jot Singh and Others

....Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.S. Mittal, Advocate for the appellants.

Mr. Radhe Shyam Sharma, 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, Sirsa (hereinafter referred to as the ‘Tribunal’) vide award dated 09.01.2012.
2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being adverted to 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 1/4 th	[Rs.54,000 – 13,500] = Rs.40,500/-
4	Multiplier of 15	[Rs.40,500 x 15] = Rs.6,07,500/-
5	Funeral expenses	Rs.5,000/-

6	Loss of Consortium	Rs.5,000/-
	Total Compensation	Rs.6,17,500/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that the claimant-appellants in the present case have produced on record the salary certificates of the deceased, which were duly proved by PW3 Munish Aggarwal, Director, Shree Aditya Menthol Private Limited, Hisar Road, Rohtak. It is further the contention of learned counsel for the claimant-appellants that there was no reason to disbelieve the salary certificates. Learned counsel for the claimant-appellants would further contend that no amount has been awarded towards loss of future prospects and 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 contention, 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.
5. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that the salary certificates produced on record by the claimant-appellants were forged and fabricated and that the deceased was only a matriculate and hence the documents produced on record by the claimant-appellants cannot be relied upon.
6. I have heard learned counsel for the parties.

7. In the present case the employer of the deceased Sh. Munish Aggarwal, Director, Shree Aditya Menthol Privat Limited has stepped into the witness-box as PW3 and has specifically stated that the deceased was employed as a Purchase Officer. He has also produced on record the salary certificates of the deceased. There is no reason forthcoming to disbelieve the said documents except for a suggestion that the documents produced by the claimant-appellants were forged and fabricated. No evidence has been produced by respondent No.3-Insurance Company to show that the said documents were forged and fabricated. In view thereof, the income of the deceased ought to have been assessed as per his last drawn salary, which was Rs.1,44,000/- per annum for the Financial Year 2009-10. Accordingly, the annual income of the deceased is assessed as Rs.1,44,000/-. The Tribunal has rightly applied a deduction of $\frac{1}{4}$ th, however no amount has been awarded towards loss of future prospects. Keeping in view the age of the deceased, an addition of 40% would have to be made towards loss of future prospects as per the law laid down by the Hon'ble Supreme Court in case of **Pranay Sethi** (supra). The Tribunal has also rightly applied a multiplier of 15, however, no amount has been awarded towards loss of estate and the amount awarded towards funeral expenses is also on the lower side. Further an amount of Rs.5,000/- has been awarded towards loss of spousal consortium, which is also not in accordance with the law laid down by the Hon'ble Supreme Court in cases of **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, who are wife and children 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	Annual income	Rs.1,44,000/-
2	Deduction 1/4 th	[Rs.1,44,000 – 36,000] = Rs.1,08,000/-
3	Future prospects @ 40 %	[Rs.1,08,000 + 43,200] = Rs.1,51,200/-
4	Multiplier 15	[Rs.1,51,200 x 15] = Rs.22,68,000/-
5	Loss of estate	Rs.18,000/-
6	Funeral expenses	Rs.18,000/-
7	Loss of Consortium : (i) Parental (ii) Spousal	Rs.96,000/- (48,000 x 2) Rs.48,000/- (Total Rs.1,44,000/-)
	Total Compensation	Rs.24,48,000/-

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.

01.04.2024
jk

(ALKA SARIN)
JUDGE

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