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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3617-2012 (O&M)
Date of decision : 12.02.2023

Bhupinder Singh & Anr. ... Appellant(s)

Versus

Ramesh & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gopal Mittal, Advocate for the appellants.
Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate for respondent No.4.

ALKA SARIN, J. (ORAL)

CM-15678-CII-2012

This is an application for condonation of delay of 20 days in filing the appeal.

For the reasons stated in the application, delay of 20 days in filing the appeal is condoned. CM stands disposed off.

FAO-3617-2012

1. The present appeal has been filed by the claimant-appellants for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Patiala vide award dated 06.01.2012.

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being 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 after deducting income tax	Rs.21,000/-
2	Deduction 1/3rd	[Rs.21,000 – 7,000] = Rs.14,000/-
3	Annual dependency	[Rs.14,000/- x 12] = Rs.1,68,000/-
4	Multiplier of 9	[Rs.1,68,000/- x 9] = Rs.15,12,000/-
5	Funeral expenses	Rs.5,000/-
6.	**Total Compensation**	**Rs.15,17,000/-**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been taken as Rs.21,000/- per month though as per the revised pay scale his monthly salary was Rs.36,100/- and after deducting the income tax i.e. Rs.28,320/- prevalent at the relevant point of time, the annual income of the deceased ought to have been taken as Rs.4,04,880/- (Rs.433200 - Rs.28320). It is further the contention of the learned counsel that though the 1/3rd deduction was rightly applied, however, multiplier of '9' has wrongly been applied by the Tribunal whereas it ought to have been '11' keeping in view the age of the deceased. It is further the contention of the learned counsel that that no amount has been awarded towards future prospects as well as under the head 'loss of consortium' and that the amount awarded under the conventional heads is also not in accordance with 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, the learned counsel for respondent No.4-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 taken the monthly salary of the deceased as Rs.21,000/- though as per the revised pay scale his monthly salary was Rs.36,100/- and after deducting the income tax i.e. Rs.28,320/- prevalent at the relevant point of time, the annual income of the deceased would be Rs.4,04,880/- [Rs.4,33,200 – Rs.28,320/- (tax)]. The Tribunal has though rightly applied deduction to the extent of 1/3rd, 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 '11' would be applicable keeping in view the age of 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), 15% 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 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 after deducting income tax of Rs.28,320/-**	Rs.4,04,880/-
2	**Deduction 1/3rd**	[Rs.4,04,880-1,34,960] = Rs.2,69,920/-
3	**Future Prospects - 15%**	[Rs.2,69,920+40,488] = Rs.3,10,408/-
4	**Multiplier - 11**	[Rs.3,10,408x11] = Rs.34,14,488/-
5	**Loss of estate**	Rs.18,000/-
6	**Funeral expenses**	Rs.18,000/-
7	**Loss of consortium** (i) Parental	 [Rs.48,000/-x2] Rs.96,000/-
	Total Compensation	**Rs.35,46,488/-**

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% 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.

(ALKA SARIN)
JUDGE

12.02.2023
Yogesh Sharma

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