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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5352-2012 (O&M)
Date of decision : 19.01.2024

Mahavir Singh & Anr ... Appellant(s)
Versus
Vinod Kumar & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Dheeraj Narula, Advocate for the appellants.
Mr. D.K. Dogra, Advocate for respondent No.3.
Mr. Vipul Sharma, Advocate as *amicus curiae*.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellants challenging the award dated 12.04.2012 passed by the Motor Accident Claims Tribunal, Sirsa. The appeal preferred by the owner of the vehicle being FAO No.5641 of 2012 has been allowed by an order of even date.
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. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a 10 years' old child and a lump-sum amount of Rs.3,70,000/- has been awarded along with interest @ 9%. The learned counsel would further contend that the said amount is on the lower side. The learned counsel has relied upon the judgment of the Hon'ble

Supreme Court in the case of **Kishan Gopal & Anr. Vs. Lala & Ors. [2013 (4) RCR (Civil) 276]** wherein the notional income of a 10 years' old child was assessed as Rs.30,000/- per annum. The learned counsel has also relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma Vs. Delhi Transport Corporation [2009 (3) RCR (Civil) 77]**; **National Insurance Co. Ltd. Vs. Pranay Sethi and Ors. [2017 (16) SCC 680]**; **Reshma Kumari & Ors. Vs. Madan Mohan & Anr. [2013 (9) SCC 65]**; and **Magma General Insurance Co. Ltd Vs. Nanu Ram alias Chuhru Ram & Ors. [2018 (4) RCR (Civil) 333]**.

4. *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.

5. Heard.

6. In the case of **Kishan Gopal** (supra), the accident had taken place in the year 1992 and in the present case the accident took place in the year 2010. In view thereof, this Court deems it appropriate to take the notional income of the deceased child as Rs.50,000/- per annum and apply a multiplier of '15'. However, no future prospects are to be added in the present case as per the judgment in the case of **Kishan Gopal** (supra). Further, as per the judgments of 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 (parents) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

7. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income	Rs.50,000/-
2	Multiplier of 15	[Rs.50,000 x 15] = Rs.5,67,000/-
3	Loss of estate	Rs.18,000/-
4	Funeral expenses	Rs.18,000/-
5	Loss of Consortium : (i) Filial	Rs.96,000/- (Rs.48,000x2)
	Total Compensation	Rs.6,99,000/-

8. 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 in equal shares.

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.

19.01.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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