

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

695

FAO-1286-2013 (O&M)
Date of Decision : 15.03.2024

PALWINDER KAUR & ORS.

... Appellants

VERSUS

SURINDER SINGH & ORS.

... Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.D. Sharma, Advocate for the appellants.

Mr. Rohit Kataria, Advocate for
Ms. Anamika Mehra, Advocate 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, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 27.11.2012.
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 had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Notional income	Rs.3,000/-
2	Annual income	[Rs.3,000 x 12] = Rs.36,000/-
3	Deduction 50%	[Rs.36,000/- - Rs.18,000/-] = Rs.18,000/-
4	Multiplier of 13	[Rs.18,000/- x 13] = Rs.2,34,000/-
5	Funeral expenses	Rs.5,000/-
6	Medical bills	Rs.47,675/-
	Total Compensation	Rs.2,86,675/-

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a young boy of 18 years who had completed his 10+2 and had a very bright future ahead. However, the Tribunal while computing his income had assessed the same as Rs.3,000/- per month. It is further the contention that future prospectus ought to have been added and that multiplier of '18' would be applicable in the present case keeping in view the age of the deceased. It is further the contention that the amount awarded under the conventional heads i.e. loss of estate and funeral expenses 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. Learned counsel has further argued that the Tribunal has erroneously held that the respondents shall pay the amount within a period of three months from the date of the award failing which the claimants shall be entitled to recover the amount with interest @ 7.5% per annum from the date of filing of the petition till its realization. Learned counsel for the claimant-appellants has relied upon the judgment passed by the Hon'ble Supreme Court in **Civil Appeal No.4911 of 2023 decided on 04.08.2023** titled as **Bishnupriya Panda V/s Basanti Manjari Mohanty and Anr.** to contend that in the case where the deceased was a 4th year student of MBBS, the Hon'ble Supreme Court had taken the notional income of the deceased as Rs.50,000/- per month. Further, reliance has been placed upon the judgment passed by the Hon'ble Supreme Court in **Civil Appeal Nos.3644-3645 of 2023 decided on 12.05.2023** titled as **Arjun Kumar Aggarwal V/s The New India Assurance Co. Ltd. and Ors.** wherein the notional income of the deceased was taken as Rs.29,166/- on the basis of an appointment letter. Further

relying upon the judgment passed by the Hon'ble Supreme Court in **Civil Appeal No.3125 of 2023 decided on 24.04.2023** titled as **Kandasami & Ors. V/s Lindabriyal & Anr.** it has been stated that the deceased in the said case was an Engineering Graduate and his notional income was taken as Rs.25,000/-.

5. *Per contra*, the learned counsel for respondent No.2-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. Heard.

7. In the present case the deceased was a student of 10+2 at the time of the accident. The Hon'ble Supreme Court in the cases of **Bishnupriya Panda** (supra) had taken the notional income of the deceased as Rs.50,000/- per month; in the case of **Arjun Kumar Aggarwal** (supra) had taken the notional income of the deceased as Rs.29,166/- per month and in the case of **Kandasami** (supra) had taken the notional income as Rs.25,000/- per month. Taking a conservative estimate, as the date of the accident was 30.07.2006, the notional income of the deceased is assessed as Rs.10,000/- per month. Further, no amount has been awarded towards future prospects which ought to have been 40%. A multiplier of '13' has wrongly been applied and hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, multiplier of '18' would be applicable keeping in view the age of the deceased. Further since the deceased was a bachelor, 50% deduction would be applicable as held by the

Hon’ble Supreme Court in the cases of **Bishnupriya Panda** (supra) and **Kandasami** (supra). 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. Accordingly, 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. The amount of Rs.47,675/- awarded against the medical bill is maintained.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Notional income	Rs.10,000/-
2.	Annual income	[Rs.10000/- x 12] = Rs.1,20,000/-
3.	Deduction 50%	[Rs.120000/- - Rs.60000/-] = Rs.60,000/-
4.	Future prospects @ 40%	[Rs.60000+ Rs.24000/-] = Rs.84,000/-
5.	Multiplier 18	[Rs.84000/- x 18] = Rs.15,12,000/-
6.	Loss of estate	[Rs.15000+20% increase] = Rs.18,000/-
7.	Funeral expenses	[Rs.15000+20% increase] = Rs.18,000/-
8.	Loss of Consortium : (i) Filial	Rs.1,92,000/- [Rs.48000 x 4]
9.	Medical Bills	Rs.47,675/-
10.	Total Compensation	Rs.17,87,675/-

9. The interest component would also have to be awarded from the date of filing of the claim petition till its realization. In view thereof, the amount awarded by the Tribunal as well as the enhanced amount shall carry an interest component @ 7.5% per annum from the date of filing of the claim petition till its realization. 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.

15.03.2024

Aman Jain

(ALKA SARIN)

JUDGE

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO