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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1472-2013 (O&M)
Date of decision : 12.01.2024

Dholi Devi & Ors. ... Appellants(s)

Versus

Jogender Singh & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.P. Sharma, Advocate for the appellants.
Mr. Vinod Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-469-CII-2024

This is an application for fixing an actual date of hearing in the main appeal.

Notice in the application.

Mr. Vinod Gupta, Advocate accepts notice on behalf of respondent No.3-Insurance Company and states that he has no objection if the present application is allowed.

In view of the above and for the reasons stated in the application, the same is allowed. With the consent of the learned counsel for the parties, the main case is taken on Board today itself.

FAO-1472-2013

1. The present appeal has been preferred by the claimant-appellants challenging the award dated 05.02.2013 passed by the Motor

Accident Claims Tribunal, Narnaul (hereinafter referred to as 'Tribunal').

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.18,351/-
2	Annual Income	[Rs.18,351 x 12] = Rs.2,20,212/-
3	10% Income Tax Deduction	[Rs.2,20,212-6,021] = Rs.2,14,191/-
4	Future Prospects @ 30%	[Rs.2,14,191 + 64,257] = Rs.2,78,448/-
5	Deduction 1/4th	[Rs.2,78,448 – 69,612] = Rs.2,08,836/-
6	Multiplier of 14	[Rs.2,08,836 x 14] = Rs.29,23,704/-
7	Funeral expenses	Rs.10,000/-
8.	Loss of Consortium	Rs.10,000/-
9	**Total Compensation**	**Rs.29,43,704/-**
10	**Deduction of amount payable by the Government**	[Rs.29,43,704 – Rs.26,42,544/-] = **Rs.3,01,160/-**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellants would contend that in the present case the Tribunal has erred in not awarding the requisite amount under the conventional heads and under the head of loss of consortium as per the law as laid down by 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 contended that the Tribunal has correctly calculated the amount of compensation assessing the salary as Rs.18,341/- per month and keeping in view the age of the deceased, multiplier of '14' was also correctly applied and future prospects to the extent of 30% were awarded. The amount of income to be received by the family of the deceased for a period of 12 years was deducted from the amount of compensation payable. The learned counsel would further contend 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 correctly assessed the income of the deceased as Rs.18,341/- per month and keeping in view the age of the deceased, multiplier of '14' was also correctly applied as well as future prospects to the extent of 30% were awarded. However, the amounts awarded under the conventional heads are not 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), **N. Jayasree** (supra). In view thereof, 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 (widow and five minor children) 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.18,351/-
2	Annual Income	[Rs.18,351 x 12] = Rs.2,20,212/-
3	Deduction towards Income Tax (Rs.6,021)	[Rs.2,20,212-6,021] = Rs.2,14,191/-
4	Future Prospects @ 30%	[Rs.2,14,191 + 64257] = Rs.2,78,448/-
5	Deduction 1/4th	[Rs.2,78,448 – 69612] = Rs.2,08,836/-
6	Multiplier of 14	[Rs.2,08,836 x 14] = Rs.29,23,704/-
7	Loss of estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of Consortium : (i) Parental (ii) Spousal's	 Rs.2,40,000/- (Rs.48,000x5) Rs.48,000/- (Total Rs.2,88,000/-)
10	**Total Compensation**	**Rs.32,47,704/-**
	Deduction of amount payable by the Government	[Rs.32,47,704 – Rs.26,42,544/-] = **Rs.6,05,160/-**

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 in equal share.

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.

12.01.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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