

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**225****FAO No.1432 of 2015****Date of Decision : 10.01.2024**

Sarbatl and Others

....Appellants

VERSUS

Vikash Kulhar and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vijay Kumar Sheoran, Advocate for the appellants.

Mr. Punit Jain, Advocate
for respondent No.3-Insurance Company.**ALKA SARIN, J. (Oral)**

1. The present appeal has been filed by the claimant-appellants challenging the award dated 31.10.2014 passed by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as the 'Tribunal') whereby a lump sum amount of Rs.1,25,000/- as compensation was awarded to the claimant-appellants on account of death of Om Parkash (hereinafter referred to as the 'deceased') in a motor vehicle accident with vehicle bearing registration No.RJ-18GA-1056 (hereinafter referred to as the 'offending vehicle').

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 employed as a Clerk in the office of

Civil Surgeon at General Hospital, Bhiwani and his gross salary was Rs.17,872/- per month and his salary bill was produced on record as Ex.PW3/A. It is further the contention of learned counsel for the claimant-appellants that the Tribunal has erroneously awarded a lump sum amount of Rs.1,25,000/- as compensation, which is totally against the law as laid down by 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. Cholanmandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

4. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that while calculating the amount of compensation the Insurance Company is entitled to deduct the amount receivable by the dependents of the deceased Government employee towards pay and wages and in the present case there were 03 years of service left and hence deduction of salary for 36 months would have to be made while calculating the amount of compensation. Learned counsel for the claimant-appellants has not disputed the said fact in view of the dictum laid down by the Hon'ble Supreme Court in the case of **Reliance General Insurance Co. Ltd. vs. Shashi Sharma & Ors. [2016(4) RCR (Civil) 569]**.

5. I have heard learned counsel for the parties.

6. The Tribunal in the present case has awarded a lump sum amount of Rs.1,25,000/- with interest @ 6% per annum. The salary of the deceased in the present case was Rs.17,872/- per month. There are 3

claimants in the present case and hence a deduction of 1/3rd would have to be applied. The deceased in the present case was 55 years of age and keeping in view his age, a multiplier of 11 would be applicable and an addition of 15% would have to be made towards loss of future prospects. Under the conventional heads, 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 as per the law laid down in the case of **Pranay Sethi** (supra). The claimant-appellants 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	Monthly income	Rs.17,872/-
2	Annual income	[Rs.17,872 x 12] = Rs.2,14,464/-
3	Deduction 1/3rd	[Rs.2,14,464-71,488] = Rs.1,42,976/-
4	Future prospects @ 15%	[Rs.1,42,976+21,446] = Rs.1,64,422/-
5	Multiplier of 11	[Rs.1,64,422x11] = Rs.18,08,646/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Parental (ii) Spousal's	Rs.96,000/- (48,000 x 2) Rs.48,000/- (Total Rs.1,44,000/-)
9	Total Compensation	Rs.19,88,646/-

8. Keeping in view the law laid down in case of **Reliance General Insurance Co. Ltd. vs. Shashi Sharma & Ors.** (supra), an amount of Rs.6,43,392/- (17,872x36) would have to be deducted from the enhanced amount of compensation of Rs.19,88,646/- and in this way the claimant-appellants would now be entitled to a compensation of **Rs.13,45,254/-**.

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.

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

10.01.2024
jk

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