IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

107 **FAO No.23 of 2014**
Date of Decision : 20.03.2024

Krishna and Others ....Appellants

VERSUS

Rupesh Kumar and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Ekta Thakur, Advocate for the appellants.

Mr. V.K. Kataria, Advocate for respondent Nos.1 and 2.

Mr. Sachin Ohri, Advocate for respondent No.3.

<u>ALKA SARIN, J.</u> (Oral)

1. The present appeal has been filed by the claimant-appellants challenging the quantum of compensation awarded vide award dated 22.04.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the '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.4,000/-
2	Annual Income	[Rs.4,000 x 12] = Rs.48,000/-
3	Multiplier of 11	[Rs.48,000 x 11] = Rs.5,28,000/-
4	Loss of consortium	Rs.20,000/-
	Total Compensation	**Rs.5,48,000/-**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a housewife and that her income has erroneously been assessed as Rs.4,000/-. Learned counsel for the claimant-appellants would further contend that the income of the deceased ought to have been assessed as Rs.5,356/- per month, which were the minimum wages at the relevant point of time. Though the multiplier has rightly been applied, however, no amount has been awarded under the conventional heads and further the amount awarded under the head 'loss of consortium' is also not in accordance with the law laid down by the Hon'ble Supreme Court and in support of her contention she has relied upon judgments of 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* learned counsel for respondent No.3-Insurance Company has contended that sufficient amount of compensation has been awarded by the Tribunal and there is no scope of any future enhancement.

6. I have heard learned counsel for the parties.

7. In the present case the Tribunal has assessed the income of the deceased, who was a housewife, as Rs.4,000/- per month. However, there is no basis for assessing the same @ Rs.4,000/- per month. A housewife does much more than a single labourer can do. Infact, she performs multiple functions in the house i.e. cooking for the family, cleaning the house, washing clothes and utensils, the list is endless. A housewife is also a

caretaker of her children as well as all the members of the house are taken care of by a housewife and hence her income cannot be equated with that of a labourer. Thus, the notional income as assessed by the Tribunal @ Rs.4,000/- per month is on the lower side, which ought to have been equivalent to the minimum wages of a skilled labourer prevailing at the relevant point of time, which were Rs.5,356/- per month. Thus, the income of the deceased is assessed as Rs.5,356/- per month. Further, keeping in view the law laid down by the Division Bench in **Paramjit Singh & Anr. Vs. Dilbagh Singh @ Bagga & Ors. [2014 (4) RCR (Civil) 895]**, the Tribunal has rightly not applied the deduction in the present case and the multiplier of 11 has also rightly been applied keeping in view the age of the deceased. Further, the claimant-appellants would be entitled to compensation under the conventional heads i.e. 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 cases of **Pranay Sethi** (*supra*) and **N. Jayasree** *(supra)*. The claimant-appellants, who are husband, daughters and sons of the deceased, would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

8. The amount of compensation to which the claimant-appellants are held entitled to, is re-calculated as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly income	Rs.5,356/-
2	Annual Income	[Rs.5,356 x 12] = Rs.64,272/-
3	Multiplier of 11	[Rs.64,272 x 11] = Rs.7,06,992/-
4	Funeral expenses	[Rs.15,000/- + 20%] = Rs.18,000/-
5	Loss of Estate	[Rs.15,000/- + 20%] = Rs.18,000/-

6	Loss of Consortium : (i) Spousal (ii) Children	 Rs.48,000/- [Rs.48,000 x 3] = Rs.1,44,000/- Total : Rs.1,92,000/-
7	**Total Compensation**	**Rs. 9,34,992/- (rounded off to Rs.9,35,000/-)**

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 as directed by the Tribunal.

10. In view of the above, the appeal filed by the claimant-appellants stands allowed and the impugned award is modified to the extent stated above. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

20.03.2024
jk

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