

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.1073 of 2016
Date of Decision : 21.02.2024

Poonam and OthersAppellants

VERSUS

Keshra Ram and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Parmod Kumar, Advocate for the appellants.
Mr. Neeraj Khanna, Advocate for respondent No.3.

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, Jhajjar (hereinafter referred to as the ‘Tribunal’) vide award dated 30.05.2015.
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.8,000/-
2	Annual income	[Rs.8,000 x 12] = Rs.96,000/-
3	Deduction 1/4 th	[Rs.96,000 – 24,000] = Rs.72,000/-

5	Multiplier of 14	[Rs.72,000 x 14] = Rs.10,08,000/-
6	Funeral and transportation expenses	Rs.25,000/-
7	Loss of consortium	Rs.22,000/-
8	Love and affection	Rs.25,000/-
	Total Compensation	Rs.10,80,000/-
	Interest	8% per annum

4. Learned counsel for the claimant-appellants would contend that the salary certificate of the deceased was produced on the record as Ex.P3 and PW3 Shyam Lal, Munshi from ZBC Bhatta Company appeared and proved the salary certificate as well as the attendance register (Ex.P4). The salary of the deceased as per the salary certificate was Rs.14,000/- per month, however, the same has been rejected by the Tribunal on the ground that account details were not brought on the record. Learned counsel for the claimant-appellants would further contend that the age of the deceased has been taken as 43 years as per ration card, however, he was 35 years of age at the time of accident and as per postmortem report (Ex.P1) his age has been shown to be 30 years. Learned counsel for the claimant-appellants would further contend that no addition has been made towards loss of future prospects and that keeping in view the age of the deceased, which was 30 years as per the postmortem report, the multiplier would also have to be 17. It is further the contention that no amount has been awarded under the head loss of estate and the amount awarded under the head loss of consortium is also on the lower side. In support of his contentions the learned counsel for the claimant-appellants has relied upon the judgments of 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642].

5. Learned counsel for respondent No.3-Insurance Company has contended that the age has correctly been taken as 43 years as per ration card. It is further the contention that the salary of the deceased has also rightly been assessed as Rs.8,000/- per month. It has further been contended that sufficient amount of compensation has been granted and there is no scope of further enhancement.

6. I have heard learned counsel for the parties.

7. In the present case, as per postmortem report the age of the deceased was 30 years. The Tribunal has taken the age of the deceased as 43 years relying on the ration card. However, in view of the postmortem report the age of the deceased is taken as 30 years at the time of accident. Further, though the claimant-appellants had produced on record the salary certificate and the attendance register of the deceased, which were duly proved by PW3 Shyam Lal, Munshi from ZBC Bhatta Company, however, the same were not considered by the Tribunal. In view thereof, the income of the deceased is assessed as Rs.14,000/- per month. Since there are 07 claimants, a deduction of 1/5th ought to have been applied, however, the Tribunal has erroneously applied the same as 1/4th. No addition has been made towards loss of future prospects, which ought to have been 40%. The Tribunal has applied a multiplier of 14, which keeping in view the age of the deceased as 30, would be 17. No amount has been awarded towards loss of estate and the

amount awarded under the head ‘loss of consortium’ is also not in accordance with the law. 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 cases of **Pranay Sethi** (*supra*) and **N. Jayasree** (*supra*). The claimant-appellants would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium i.e. spousal, filial and parental.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.14,000/-
2	Annual Income	[Rs.14,000x12] = Rs.1,68,000/-
3	Deduction 1/5 th	[Rs.1,68,000-33,600] = Rs.1,34,400/-
4	Future Prospects - 40%	[Rs.1,34,400+53,760] = Rs.1,88,160/-
5	Multiplier - 17	[Rs.1,88,160 x 17] = Rs.31,98,720/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Parental (ii) Filial (iii) Spousal	[Rs.48,000/-x4] = Rs.1,92,000/- [Rs.48,000/-x2] = Rs.96,000/- Rs.48,000/- (Total Rs.3,36,000/-)
	Total Compensation	Rs.35,70,720/-

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% 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 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.

21.02.2024
jk

(ALKA SARIN)
JUDGE

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