

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**225****FAO No.481 of 2013****Date of Decision : 20.02.2024**

Santosh and Others

....Appellants

VERSUS

Sunil @ Sunny and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jainender Saini, Advocate for the appellants.

None for the respondents.

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, Hisar (hereinafter referred to as the 'Tribunal') vide award dated 08.08.2012.

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. Vide order dated 05.12.2014, since the respondents did not appear despite service, they were proceeded against *ex parte*. Subsequently, Mr. G.D. Gupta, Advocate put in appearance on behalf of the Insurance Company. In 2017, Mr. R.C. Kapoor, Advocate put in appearance on behalf of the Insurance Company. Thereafter, none has been putting in appearance on behalf of the Insurance Company despite the matter being taken up on numerous dates. On 04.01.2024 none was present on behalf of the parties

and the case was adjourned to today. Today, none has put in appearance on behalf of respondent No.3-Insurance Company. Accordingly, it is proceeded against *ex parte*.

4. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.3,000/-
2	Annual income	[Rs.3,000 x 12] = Rs.36,000/-
3	Deduction 1/3 rd	[Rs.36,000 - 12,000] = Rs.24,000/-
4	Multiplier of 15	[Rs.24,000 x 15] = Rs.3,60,000/-
5	Funeral expenses	Rs.6,000/-
	Total Compensation	Rs.3,66,000/-
	Interest	6% per annum

5. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed as Rs.3,000/- per month as the minimum wage of an unskilled worker prevailing at the time of the accident was Rs.4,348/- per month. Learned counsel for the claimant-appellants would further contend that a deduction of 1/3rd has wrongly been applied by the Tribunal, whereas it ought to have been 1/4th as there are 04 claimants in the present case. It is further the contention of learned counsel for the claimant-appellants that no amount has been awarded towards loss of estate as well as under the head loss of consortium. However, an amount of Rs.6,000/- has been awarded towards funeral expenses, which is also not in accordance with the law. 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642].

6. Heard.
7. In the present case, the minimum wage at the time of accident was Rs.4,348/- per month. Accordingly, income of the deceased is assessed as Rs.4,348/- per month. Since there are 04 claimants a deduction of 1/4th ought to have been applied, however, the Tribunal has erroneously applied the same as 1/3rd. No addition has been made towards loss of future prospects, which ought to have been 25%. No amount has been awarded towards loss of estate and the amount of Rs.6,000/- awarded by the Tribunal under the head funeral expenses is also on the lower side. Further, no amount has been awarded under the head ‘loss of consortium’. 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 and parental.
8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4,348/-
2	Annual income	[Rs.4,348 x 12] = Rs.52,176/-
3	Deduction 1/4 th	[Rs.52,176 – 13,044] = Rs.39,132/-

4	Future prospects @ 25%	[Rs.39,132 + 9,783] = Rs.48,915/-
5	Multiplier 15	(Rs.48,915 x 15) = Rs.7,33,725/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Parental (ii) Spousal	Rs.1,44,000/- (48,000 x 3) Rs.48,000/- (Total Rs.1,92,000/-)
	Total Compensation	Rs.9,61,725/-

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.

20.02.2024
jk

(ALKA SARIN)
JUDGE

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