

229
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2640-2015 (O&M)
Date of decision : 02.02.2024

Pooja Devi & Ors. ... Appellant(s)
Versus
Karan Kumar & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A.P.S. Mann, Advocate for the appellants.

Mr. Rohit Ahuja, DAG Punjab
for respondent Nos.1 to 4, 7 and 8.

Mr. Amit Kundra, Advocate for respondent No.6.

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, Hoshiarpur vide award dated 28.10.2013.
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.4,500/-

2	Annual income	[Rs.4,500 x 12] = Rs.54,000/-
3	Deduction 1/3rd	[Rs.54,000 - 18,000] = Rs.36,000/-
4	Multiplier of 16	[Rs.36,000 x 16] = Rs.5,76,000/-
5	Funeral expenses	Rs.4,000/-
6	Loss of estate	Rs.10,000/-
7	Loss of consortium	Rs.10,000/-
	Total Compensation	Rs.6,00,000/-
	Interest	9% per annum

4. Learned counsel for the claimant-appellants would contend that the income of the deceased was Rs.5,900/- per month at the time of his death and that the income has wrongly been assessed as Rs.4,500/- per month on the basis of the minimum wage. It is further the contention that though the Tribunal has rightly applied a deduction of 1/3rd as well as a multiplier of 16, however, no amount has been awarded towards future prospects and the amount awarded under the conventional heads as well as under the head loss of consortium is also not as per the law laid down by the Hon’ble Supreme Court. 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 **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]**.

5. *Per contra*, the learned counsel for Nos.1 to 4, 7 and 8/State has vehemently argued that sufficient amount has already been awarded as

compensation in the present case and that there is no scope of any enhancement. Learned State counsel has further contended that in the absence of any proof the income of the deceased has rightly been assessed as per the minimum wage.

6. I have heard the learned counsel for the parties.

7. In the present case only a salary slip was produced by the claimant-appellants which too pertained to July 2009. The accident had taken place in the year 2011. None appeared in order to prove the salary slip and the said salary slip was marked as R-1. In the absence of any evidence, the income of the deceased has rightly been assessed as Rs.4,500/- per month and the same is maintained. Further, no amount has been awarded towards future prospects and hence as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition is made towards future prospects. The Tribunal has though rightly applied a multiplier of '16' as well as deduction of $\frac{1}{3}^{\text{rd}}$, however, the amount awarded under the conventional heads as well as under the head loss of consortium is not in consonance with the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra) and hence, 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 two minor children of the deceased) 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.4,500/-
2	Annual income	[Rs.4,500 x 12] = Rs.54,000/-
3	Deduction 1/3rd	[Rs.54,000 - 18,000] = Rs.36,000/-
4.	Future prospects @ 40%	[Rs.36,000 + 14,400] = Rs.50,400/-
5	Multiplier 16	(Rs.50,400 x 16) = Rs.8,06,400/-
6	Loss of estate	(Rs.15,000+20% increase) Rs.18,000/-
7	Funeral expenses	(Rs.15,000+20% increase) 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.9,86,400/-
10	Amount awarded by the Tribunal	Rs.6,00,000/-
	Enhanced amount	Rs.3,86,400/-

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 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.

02.02.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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