IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105 **FAO-4287-2014 (O&M)**
Date of Decision : 27.11.2024

Jayanti Rawat and Another ....Appellants

VERSUS

Roshan Lal Kochar and Another ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vipul Sharma, Advocate for
Mr. Ashwani Arora, Advocate for the appellants.

Mr. Rahul Pathania, Advocate for
Mr. R.C. Kapoor, Advocate
for respondent No.2-Insurance Company.

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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 20.12.2013.

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 had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Notional income	Rs.6,000/-
2	Annual income	[Rs.6,000 x 12] = Rs.72,000/-
3	Multiplier of 13	[Rs.72,000/- x 13] = Rs.9,36,000/-
4	Funeral expenses and last rites	Rs.25,000/-

5	Loss of love and affection	Rs.75,000/-
	Total Compensation	**Rs.10,36,000/-**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a young boy of 18 years and was a student of 10+2 (Commerce Stream) in Sri Guru Gobind Singh Senior Secondary School, Sector 35-B, Chandigarh and had a very bright future ahead. However, the Tribunal while computing his notional income had assessed the same as Rs.6,000/- per month. It is further the contention that no addition has been made towards loss of future prospectus and that a multiplier of '13' has wrongly been applied by the Tribunal. The deceased in the present case was 18 years of age and hence, as per the law laid down by the Hon'ble Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, an addition of 40% ought to have been made towards loss of future prospects and keeping in view the law laid down by the Hon'ble Supreme Court in case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]** a multiplier of '18' would be applicable in the present case. It is further the contention that the amount awarded under the conventional heads as well as under the head 'loss of consortium' is also not in accordance with the law laid down by the Hon'ble Supreme Court in cases of **Pranay Sethi** *(supra)*, **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]**. Learned counsel for the claimant-appellants has relied upon the

judgment passed by the Hon’ble Supreme Court in the case of **Bishnupriya Panda vs. Basanti Manjari Mohanty & Anr. [2023(4) TAC 44]** to contend that in the case where the deceased was a 4th year student of MBBS, the Hon’ble Supreme Court had taken the notional income of the deceased as Rs.50,000/- per month. Further, reliance has been placed upon the judgment passed by the Hon’ble Supreme Court in the case of **Arjun Kumar Aggarwal vs. The New India Assurance Co. Ltd. & Ors. [2023(3) TAC 23]** wherein the notional income of the deceased was taken as Rs.29,166/- on the basis of an appointment letter. Further, relying upon the judgment passed by the Hon’ble Supreme Court in the case of **Kandasami & Ors. vs. Lindabriyal & Anr. [2023(3) TAC 30]** it has been stated that the deceased in the said case was an Engineering Graduate and his notional income was taken as Rs.25,000/- per month.

5. *Per contra,* the learned counsel for respondent No.2-Insurance Company 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.

6. Heard.

7. In the present case the deceased was a student of 10+2 at the time of the accident. The Hon'ble Supreme Court in the cases of **Bishnupriya Panda** (supra) had taken the notional income of the deceased as Rs.50,000/- per month; in the case of **Arjun Kumar Aggarwal** (supra) had taken the notional income of the deceased as Rs.29,166/- per month and in the case of **Kandasami** (supra) had taken the notional income as

Rs.25,000/- per month. Taking a conservative estimate, as the date of the accident was 03.09.2012, the notional income of the deceased is assessed as Rs.15,000/- per month. Further, no amount has been awarded towards future prospects. The deceased in the present case was 18 years of age and keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** *(supra)*, an addition of 40% ought to have been made. The Tribunal has wrongly applied a multiplier of '13', whereas as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** *(supra)* a multiplier of '18' would be applicable. Further, since the deceased was a bachelor, 50% deduction would be applicable as held by the Hon'ble Supreme Court in the cases of **Bishnupriya Panda** (supra) and **Kandasami** (supra). Further, the amount awarded under the conventional heads as well as under the head 'loss of consortium' is not as per 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-appellant would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of filial consortium.

8. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Notional income	Rs.15,000/-
2	Annual income	[Rs.15,000 x 12] = Rs.1,80,000/-
3	Deduction 50%	[Rs.1,80,000 – 90,000] = Rs.90,000/-

4	Future prospects @ 40%	[Rs.90,000 + 36,000/-] = Rs.1,26,000/-
5	Multiplier 18	[Rs.1,26,000 x 18] = Rs.22,68,000/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Filial	Rs.1,44,000/- [Rs.48000 x 3]
	Total Compensation	**Rs.24,48,000/-**

9. Appellant No.2 i.e. the father of the deceased has died during pendency of the present appeal and consequently his daughters i.e. appellant Nos.2(ii) to 2(iii) were impleaded as his legal representatives vide order dated 12.01.2023. However, in the absence of any evidence they, being the married sisters of the deceased, cannot be considered as dependents and would be entitled to only the loss of filial consortium in view of the judgment of the Hon'ble Supreme Court in case of **The New India Assurance Company Ltd. Vs. Anand Pal & Ors. [2023(4) PLR 380]**.

10. 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.

11. 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

27.11.2024
jk

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