

219
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-290-2015 (O&M)
Date of decision : 24.01.2024

Meena & Ors ... Appellant(s)

Versus

Farukh & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anil K. Sokal, Advocate for
Mr. Vaibhav Jain, Advocate for the appellants.

Mr. R.K. Bashamboo, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-823-CII-2015

1. This is an application for condonation of delay of 186 days in refiling the appeal.
2. For the reasons stated in the application, delay of 186 days in refiling the appeal is condoned. CM stands disposed off.

CM-822-CII-2015

3. This is an application for condonation of delay of 126 days in filing the appeal.
4. For the reasons stated in the application, delay of 126 days in filing the appeal is condoned. CM stands disposed off. However, the

claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal.

FAO-290-2015

5. The present appeal has been preferred by the claimant-appellants challenging the award dated 06.07.2013 passed by the Motor Accident Claims Tribunal, Nuh (hereinafter referred to as ‘Tribunal’).

6. 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.

7. 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	Deduction 1/4 th	[Rs.48,000-12,000] = Rs.36,000/-
4	Multiplier of 11	[Rs.36,000x11] = Rs.3,96,000/-
5	Medical expenses	Rs.6,701/-
6	Transportation charges	Rs.5,000/-
7	Funeral expenses	Rs.10,000/-
8	Loss of Consortium	Rs.10,000/-
9	Total Compensation	Rs.4,27,701/- rounded off to Rs.4,28,000/-
	Interest	6% per annum

8. Learned counsel for the claimant-appellants would contend that the minimum wage of an unskilled worker at the time of the accident was Rs.4,643/- per month, however, the Tribunal has wrongly assessed the

income of the deceased as Rs.4,000/- per month. It is further the contention of the learned counsel that though the multiplier as well as deduction applied are correct, however, no amount has been awarded towards loss of future prospects and that 10% addition ought to have been made towards future prospects. The learned counsel for the claimant-appellants would further contend that the amounts awarded under the conventional heads and under the head 'loss of consortium' are 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 **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. Cholanmandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

9. *Per contra*, the learned counsel for respondent No.3-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.

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

11. In the present case the Tribunal has wrongly assessed the income of the deceased as Rs.4,000/- per month as the minimum wage of an unskilled worker at the time of the accident was Rs.4,643/- per month and hence the income of the deceased is assessed as Rs.4,643/- per month.

Though the Tribunal has correctly applied the deduction of 1/4th as well as multiplier of 11, however, no amount has been awarded towards loss of future prospects and hence as per the law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra), 10% addition is made towards future prospects. Further, the amounts awarded under the conventional heads and under the head ‘loss of consortium’ are also 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-appellants (widow and five children of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. The amount of Rs.6,701/- awarded by the Tribunal towards medical expenses is maintained.

12 Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4,643/-
2	Annual income	[Rs.4,643 x 12] = Rs.55,716/-
3	Deduction 1/4 th	[Rs.55,716-13,929] = Rs.41,787/-
4	Future prospects @ 10%	[Rs.41,787+4,179] = Rs.45,966/-
5	Multiplier of 11	[Rs.45,966x11] = Rs.5,05,626/-
6	Medical Expenses	Rs.6,701/-
7	Loss of estate	Rs.18,000/-

8	Funeral expenses	Rs.18,000/-
9	Loss of Consortium : (i) Parental (ii) Spousal's	Rs.2,40,000/- (48,000 x 5) Rs.48,000/- (Total Rs.2,88,000/-)
10	Total Compensation	Rs.8,36,327/-
	Amount Awarded by the Tribunal	Rs.4,28,000/-
	Enhanced amount	Rs.4,08,327/-

13. 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. It is, however, made clear that in case the claimants (minor children) have now turned 18, the amount be released to them. However, if any of the children are still minor, the amount shall be deposited in an FDR as directed by the Tribunal in a nationalized bank till they attain the age of majority. The claimant-appellants shall not be entitled to interest for the period of delay in filing the present appeal.

14. 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.

24.01.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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