IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

237 **FAO-330-2015 (O&M)**
Date of Decision: 22.08.2024

SIMRAT AND ORS .... Appellants

VERSUS

KUMAR GOYAL AND ORS .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Arun Gupta, Advocate for the appellants.

Mr. U.M. Khan, Advocate for
Mr. Anupam Singla, Advocate for respondents No.1 and 2.

Mr. R.C. Gupta, Advocate for respondent No.3.

<u>ALKA SARIN, J</u>. (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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 11.03.2014.

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	Salary	₹4,000
2	30% of (i) above to be added as future prospects	₹4,000 + ₹1,200 = ₹5,200 per month
3	1/3rd of (ii) deducted as personal expenses of the deceased	₹5,200 - ₹1,733 = ₹3,467
4	Compensation after multiplier of 13 is applied	₹3,467 x 12 x 13 = ₹5,40,852
5	Loss of consortium	₹1,00,000
6	Funeral expenses	₹25,000
	Total Compensation	**₹6,65,852**
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was aged about 48 years and working as an Asha Worker and giving tuitions and was earning ₹15,000 per month and that her income has erroneously been assessed as ₹4,000 per month. Learned counsel for the claimant-appellants would further contend that the income of the deceased ought to have been assessed as ₹8,404 which were the minimum wages prevailing at the relevant time. Though the multiplier of '13' has rightly been applied, however, no amount has been awarded by the Tribunal towards loss of estate in view of the law laid down by 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. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that the amount awarded under the head “consortium” i.e. ₹1,00,000/- is on the higher side as the same has been given towards loss of love and affection and consortium to all the three claimants. Learned counsel for respondent No.3 would further contend that as per the judgment of the Hon’ble Supreme Court in ***Magma General Insurance Company Limited*** (supra) an amount of ₹40,000 should have been given under the head “loss of consortium” and an amount of ₹30,000 under the conventional heads. It is further the contention that though the claimants have pleaded that the deceased was working as an Asha Worker and was also giving tuitions, however, there is no document on the record to establish the said fact.

6. I have heard learned counsel for the parties.

7. In the present case though the claimant-appellants have taken a specific stand that the deceased was working as an Asha Worker and was also giving tuitions, however, there is no evidence on the record in the form of salary certificate or any other document to even remotely suggest that the deceased was earning ₹15,000 per month. In the absence of any document, the deceased is considered to be a housewife and her income is assessed according to the minimum wages prevailing at the relevant point of time, which was ₹8,404 per month.

8. The Tribunal, besides applying deductions also granted future prospects. However, a Division Bench of this Court in the case of ***Paramjit***

Singh & Anr. Vs. Dilbagh Singh @ Bagga & Ors. [2014 (4) RCR (Civil) 895] has held as under :

> *"14. We may hasten to add that in all those cases, referred to above, in which 1/3rd cut has been applied, no reasoning has been given by the learned Single Judge rather in the cases, referred to above, in which 1/3rd cut has not been applied, the learned Single Judge had observed that Rs.3,000/- per month is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction cannot be applied. In view of the aforesaid discussion, we are of the considered view that while calculating the notional income of the housewife, the entire income should be taken as dependency of the legal heirs without applying any cut much-less 1/3rd, as has been done in certain cases.*
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> *15. Since we had taken up the main case as well for decision, the compensation is, thus, ordered to be assessed @ Rs.3,000/- per month. While quantifying the same, it has to be multiplied by 12 which comes to Rs.36,000/- per annum and on applying multiplier of 14, it comes to Rs.5,04,000/-. The said amount is ordered to be paid along with Rs.5,000/- under the head of loss of estate and Rs.5,000/- as funeral expenses. The total*

compensation, thus, comes to Rs.5,14,000/- instead of Rs.3,46,000/-. Meaning thereby, the appellants would get an extra amount of Rs.1,68,000/- along with interest @ 6% per annum from the date of filing of the claim petition till its actual realization. However, rest of the terms would remain the same as settled by the learned Tribunal vide its order dated 04.01.2012."

9. Keeping in view the law laid down by the Division Bench in ***Paramjit Singh & Anr.*** (supra) no deduction ought to have been applied. The multiplier of '13' has rightly been applied keeping in view the age of the deceased, however, amounts awarded under the conventional heads i.e. loss of estate, funeral and loss of consortium are not as per the law laid down by the Hon'ble Supreme Court. The claimant-appellants would be entitled to ₹15,000 + 20% towards loss of estate. The compensation under the head consortium would be ₹40,000 + 20% each to all the claimants. The amount of compensation to which the claimant-appellants are held entitled to, is re-calculated as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹8,404
2	Annual Income	[₹8,404 x 12] = ₹1,00,848
3	Multiplier of '13'	[₹1,00,848 x 13] = ₹13,11,024
4	Funeral expenses	[₹15,000/- + 20%] = ₹18,000/-
5	Loss of Estate	[₹15,000/- + 20%] = ₹18,000/-
6	Loss of Consortium : (i) Spousal (ii) Children	 ₹48,000/- [₹48,000 x 2] = ₹96,000/- Total: ₹1,44,000/-
7	**Total Compensation**	**₹14,91,024**

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. The amount shall be apportioned as directed by the Tribunal.

11. In view of the above, the appeal filed by the claimant-appellants stands allowed and the impugned award is modified to the extent stated above. Pending applications, if any, also stand disposed off.

22.08.2024 **(ALKA SARIN)**
Aman Jain **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No