

FAO-5205-2014 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5205-2014 (O&M)
Reserved on : 09.01.2024
Date of decision : 16.01.2024

Durga Khatri and Ors. ... Appellant(s)

Versus

Ram Pukar & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Balkar Singh, Advocate for the appellants.

Service of respondent Nos.1 and 2
dispensed with vide order dated 18.12.2015.

Mr. Ashwani Talwar, Advocate for respondent No.3.

ALKA SARIN, J.

1. The present appeal has been filed by the claimant-appellants for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh vide award dated 19.12.2012.
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. 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 1/3 rd	[Rs.48,000 – 16,000] = Rs.32,000/-
4	Multiplier of 16	[Rs.32,000/- x 16] = Rs.5,12,000/-
5	Funeral expenses	Rs.10,000/-
6	Loss of estate	Rs.10,000/-
7	Loss of Consortium	Rs.10,000/-
8.	Total Compensation	Rs.5,42,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was 35 years of age at the time of the accident and was earning an amount of Rs.4,000/- per month. Learned counsel would further contend that no amount has been awarded towards future prospects and that though the deduction and the multiplier as applied by the Tribunal are correct, however, amounts awarded under the head loss of estate, funeral expenses and loss of consortium are not as per the law as laid down by 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. Respondent Nos.1 and 2 (driver and owner of the offending vehicle) were proceeded against *ex parte* vide order dated 18.12.2015. Even

today none has put in appearance on their behalf.

6. *Per contra* the learned counsel for respondent No.3-Insurance Company has contended that sufficient amount has been awarded as compensation in the present case and that there is no scope of any enhancement.

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

8. In the present case the Tribunal has rightly assessed the income of the deceased as Rs.4,000/- per month. However, it has erred in not awarding the future prospects to the claimant-appellants. Keeping in view the age of the deceased, future prospects to the extent of 40% are awarded as per law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra). Multiplier and deduction have rightly been applied by the Tribunal. Further, the amounts awarded under the conventional heads are not as per the law as laid down by the Hon’ble Supreme Court. In view thereof, 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 would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

9. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4,000/-
2	Annual income	[Rs.4,000 x 12] = Rs.48,000/-
3	Deduction 1/3 rd	[Rs.48,000 – 16,000] = Rs.32,000/-
4	Future prospects @ 40%	[Rs.32,000+12,800] = Rs.44,800/-

5	Multiplier of 16	[Rs.44,800x16] = Rs.7,16,800/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium: (i) Parental (ii) Spousal's	Rs.96,000/- (Rs.48,000x2) Rs.48,000/- (Total Rs.1,44,000/-)
	Total Compensation	Rs.8,96,800/-

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 between the claimant-appellants in equal shares.

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.

16.01.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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