IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

223 **FAO-2723-2016 (O&M)**
Date of Decision : 29.08.2024

MEENU KUMARI AND ORS .... Appellants

VERSUS

RAJU KUMAR AND ANOTHER .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amanpreet (A.P.) Singh, Advocate for the appellants.
(Legal Aid Counsel)

Mr. R.C. Kapoor, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

CM-10139-CII-2016

1. This is an application for condonation of delay of 56 days in filing the present appeal.

2. For the reasons stated in the application, the same is allowed. Delay of 56 days in filing the appeal is condoned.

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3. The present appeal has been preferred by the claimant-appellants challenging the award dated 25.08.2015 passed by the Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal').

4. Since the factum of the accident is not in dispute, the facts as recorded in the impugned award passed by the Tribunal are not being adverted to for the sake of brevity. The only challenge in the present appeal

by the claimant-appellants is to the quantum of compensation awarded by the Tribunal.

5. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹8,000
2	Annual income	[₹8,000 x 12] = ₹96,000
3	Deduction 1/4th	[₹96,000 - ₹24,000] = ₹72,000
4	Multiplier of '13'	[₹72,000 x 13] = ₹9,36,000
5	Funeral and other expenses	₹24,000
6	Compensation to the family members for loss of love and affection, deprivation of protection, loss of consortium to widow and social security etc.	₹1,00,000
7	**Total Compensation**	**₹10,60,000**
8	**Interest**	**7.5% per annum**

6. Learned legal aid counsel for the claimant-appellants would contend that the claimant-appellants are neither challenging the income as assessed nor the deduction made or the multiplier applied by the Tribunal. However, learned counsel for the claimant-appellants would contend that no amount has been awarded towards future prospectus which ought to have been 25% as per the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**. It is further the contention that ₹1,00,000 has been awarded in lump sum towards consortium which is not as per the judgment of the Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18**

SCC 130]. It is also submitted that the amounts under the conventional heads have to be reworked out as a lump sum of ₹24,000 has been awarded.

7. *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.

8. Heard.

9. In the present case no challenge has been laid to the income, which was assessed as ₹8,000 per month by the Tribunal, and hence the same is maintained. No challenge has also been laid to the deduction made and the multiplier applied. Accordingly, the same are also maintained. No amount has been awarded towards future prospectus and hence as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 25% addition is made towards future prospects. Under the heads loss of estate and funeral expenses, a lump sum amount of ₹24,000 has been awarded and hence the same need be reworked. Accordingly, ₹18,000 is awarded on account of loss of estate and ₹18,000 under the head funeral expenses. A lump sum amount of ₹1,00,000 has been awarded under the consortium. In the present case there are four claimant-appellants i.e. wife, two children and mother of the deceased. In view of the law laid down by the Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited** (supra), the mother would be entitled to filial consortium, the wife would be entitled to spousal consortium and the

children would be entitled to parental consortium amounting to ₹48,000 each. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹8,000
2	Annual income	[₹8,000 x 12] = ₹96,000
3	Deduction $1/4^{th}$	[₹96,000 - ₹24,000] = ₹72,000
4.	Future prospects @ 25%	[₹72,000 + ₹18,000] = ₹90,000
5	Multiplier '13'	[₹90,000 x 13] = ₹11,70,000
6	Loss of estate	[₹15,000 + 20% increase] = ₹18,000
7	Funeral expenses	[₹15,000 + 20% increase] = ₹18,000
8	Loss of Consortium : (i) Parental (ii) Filial (iii) Spousal's	 ₹96,000 [48,000 x 2] ₹48,000 ₹48,000 [Total ₹1,92,000]
9	**Total Compensation**	**₹13,98,000**

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 as directed by the Tribunal.

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.

29.08.2024 **(ALKA SARIN)**
Aman Jain **JUDGE**

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