

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

103

FAO-6397-2013 (O&M)
Date of Decision : 20.03.2024

MANJEET KAUR AND OTHERS

.... Appellants

VERSUS

MANJIT KUMAR AND OTHERS

.... Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Ekta Thakur, Advocate for the appellants.
Mr. Rajneesh Malhotra, Advocate for respondent No.4.

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 13.09.2013.
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.	Monthly dependency	Rs.5,000/-
2.	Deduction 1/3 rd	[Rs.5,000/- - Rs.1,666/-] = Rs.3,334/-
3.	Annual dependency	[Rs.3,334/- x 12] = Rs.40,008/-
4.	Multiplier of 11	[Rs.40,008/- x 11] = Rs.4,40,088/-
5.	Future prospects 15%	[Rs.4,40,088/- + Rs.66,013/-] = Rs.5,06,101/-
6.	Funeral expenses	Rs.25,000/-
7.	Loss of consortium	Rs.1,00,000/-
8.	Total Compensation	Rs.6,31,101/-
	Interest	7.50% per annum

4. Learned counsel for the claimant-appellants would contend that the income of the deceased was wrongly assessed as Rs.5,000/- per month and further the Tribunal erred in not awarding an amount of Rs.52,667/- towards the medical expenses incurred by the deceased inasmuch as the deceased remained under treatment w.e.f. 20.11.2009 to 25.11.2009. It is further the contention that the amount awarded under the conventional heads as well as towards 'loss of consortium' is also not in accordance with the law laid down by the Hon'ble Supreme Court. 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 **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Choramandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, the learned counsel for respondent No.4-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. I have heard the learned counsel for the parties.

7. In the present case the Tribunal has though rightly assessed the income of the deceased as Rs.5,000/- per month and correctly applied a multiplier of '11' and deduction to the extent of $\frac{1}{3}$ rd, however, the addition @ 15% has been awarded by the Tribunal which ought to have been @ 10% in view of the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16**

SCC 680]. Further, the amount awarded under the conventional heads and towards ‘loss of consortium’ is not as per the law laid down by the Hon’ble Supreme Court. Accordingly, 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 No.1 to 3, being wife and sons of the deceased, would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. Further, admittedly the deceased remained under treatment w.e.f 20.11.2009 to 25.11.2009 and had incurred an amount of Rs.52,667/-. Hence, the claimant-appellants would also be entitled to the entire medical expenses @ Rs.52,667/-.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.5,000/-
2	Annual income	[Rs.5,000 x 12] = Rs.60,000/-
3	Deduction 1/3 rd	[Rs.60,000/- - Rs.20,000/-] = Rs.40,000/-
4.	Future prospects @ 10%	[Rs.40,000/- + Rs.4,000/-] = Rs.44,000/-
5	Multiplier 11	[Rs.44,000/- x 11] = Rs.4,84,000/-
6	Loss of estate	[Rs.15,000+20% increase] = Rs.18,000/-
7	Funeral expenses	[Rs.15,000+20% increase] = Rs.18,000/-
8	Loss of Consortium : (i) Parental (ii) Spousal’s	Rs.96,000/- [48,000 x 2] Rs.48,000/- [Total Rs.1,44,000/-]
9.	Medical bill	Rs.52,667/-
10	Total Compensation	Rs.7,16,667/-

9. 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.

10. 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.

20.03.2024

Aman Jain

(ALKA SARIN)

JUDGE

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