



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

284

FAO-4685-2015 (O&M)
Date of Decision : 18.11.2024

Satish Kumar and AnotherAppellants

VERSUS

Lilu Ram and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jagdish Manchanda, Advocate for the appellants.
Mr. Punit Jain, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been filed by the claimants challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as the ‘Tribunal’) vide award dated 29.08.2014.
2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being adverted to for the sake of brevity. The Tribunal in the present case awarded the following compensation:

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.19,400/-
2	Monthly income after 40% deduction	Rs.11,700/-
3	Annual income after applying the multiplier of 17	[Rs.11,700 x 17 x 12] = Rs.23,86,800/-
4	Transportation and Funeral expenses	Rs.25,000/-

5	Loss of Love and Affection consortium	Rs.23,200/-
	Total Compensation	Rs.24,35,000/-
	Interest	8% per annum

3. Learned counsel for the claimant-appellants would contend that though the income of the deceased has rightly been assessed as Rs.19,440/- per month and a multiplier of ‘17’ has also correctly been applied, however, an amount of 40% has wrongly been deducted towards personal expenses of the deceased. Learned counsel for the claimant-appellants would further contend that even the amounts awarded under the conventional heads and under the head ‘loss of consortium’ are also not in accordance with law and need to be re-worked out. It is further the contention that no addition has been made towards loss of future prospects and an addition of 50% should be made as the deceased was a Lecturer Guest Faculty and was posted at Government Girls Senior Secondary School, village Imlota, Tehsil Charkhi Dadri, District Bhiwani. In support of his contention he 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. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

4. *Per contra* learned counsel for respondent No.3-Insurance Company would contend that a deduction of 50% ought to be made as there was only one dependent i.e. the minor daughter of the deceased and that the husband, who was also one of the claimants, is a teacher and is earning

himself. It is further the contention that an addition of 40% is to be made towards loss of future prospects as the deceased was not treated as a permanent lecturer and no amount was awarded to the family under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006. It has further been contended that there is no scope of any further enhancement.

5. Heard.

6. In the present case the Tribunal has assessed the income of the deceased as Rs.19,440/- per month and has correctly applied a multiplier of '17', which has not been challenged by learned counsel for the claimant-appellants. However, a deduction of 40% has wrongly been applied towards personal expenses of the deceased. In the present case there are two claimants i.e. husband and the minor daughter of the deceased. The argument of learned counsel for respondent No.3-Insurance Company that a deduction of 50% ought to have been made since there was only one claimant, deserves to be rejected as the deceased would have been contributing towards the house running alongwith her husband and hence both the husband and the daughter would be treated as claimants and hence a deduction of 1/3rd is to be applied. No addition has been made towards loss of future prospects. Keeping in view the age of the deceased, who was 26 years of age and the fact that the deceased was a Lecturer Guest Faculty and has not been treated as a permanent employee and her family has not been granted any compensation under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, an addition of 40% is to be made

towards loss of future prospects. Further, no amount has been awarded towards loss of estate, however, an amount of Rs.25,000/- has been awarded towards transportation and funeral expenses, which is not in accordance with the law and hence, 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), 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. The amount awarded under the head ‘loss of consortium’ is also not in consonance with the law laid down by the Hon’ble Supreme Court and hence the claimant-appellants would also be entitled to Rs.48,000/- (Rs.40,000+20% increase) each towards loss of spousal and parental consortium.

7. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.19,440/-
2	Annual Income	[Rs.19,440 x 12] = Rs.2,33,280/-
3	Deduction - 1/3 rd	[Rs.2,33,280 – 77,760] = Rs.1,55,520/-
4	Future Prospects - 40%	[Rs.1,55,520 + 62,208] = Rs.2,17,728/-
5	Multiplier - 17	[Rs.2,17,728 x 17] = Rs.37,01,376/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	<u>Loss of consortium</u>	
	(i) Spousal	Rs.48,000/-
	(ii) Parental	Rs.48,000/-
		Rs.96,000/-
	Total	Rs.38,33,376/-

8. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 8% per annum from the date of filing of the claim petition till the realization of the entire amount. The

enhanced amount of compensation shall be apportioned amongst the claimant-appellants as directed by the Tribunal.

9. In view of the above discussion, present appeal is disposed off in the above terms. The award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

18.11.2024

jk

**(ALKA SARIN)
JUDGE**

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