IN THE HIGH C OURT OF PUNJAB AND HARYANA AT CHANDIGARH

223 **FAO-3756-2016 (O&M)**
Date of Decision : 18.10.2024

Taranjit Kaur and Others ....Appellants

VERSUS

Mohinder Pal Singh and Others ....Respondents

223-1 **FAO-3203-2016 (O&M)**

Magma General Insurance Co Ltd ....Appellant

VERSUS

Taranjit Kaur and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Dushyant Godara, Advocate for
Mr. Vivek Suri, Advocate
for the appellants in FAO-3756-2016 and
for respondent Nos.1 to 5 in FAO-3203-2016.

Mr. Pankaj Mehta, Advocate
for the appellant in FAO-3203-2016 and
for respondent No.3 in FAO-3756-2016.

ALKA SARIN, J. (Oral)

1. This common order will dispose off both the above-captioned appeals being FAO-3756-2016 filed by the claimants and FAO-3203-2016 filed by the Insurance Company challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') vide award dated 30.01.2016.

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.

3. The Tribunal awarded the following compensation :

Sr.No.	Heads	Compensation Awarded
1	Monthly income	Rs.9,000/-
2	Income after 1/4th deduction	[Rs.9,000 – 2,250] = Rs.6,750/-
3	Compensation after applying the multiplier of 16 (wrongly mentioned as 9)	[Rs.6,750 x 12 x 16] = Rs.12,96,000/-
4	For loss of consortium to claimant No.1	Rs.1,00,000/-
5	For loss of love and affection to claimants No.2 and 3	Rs.2,00,000/- @ Rs.1,00,000/- each
6	For funeral expenses	Rs.25,000/-
	Total Compensation	**Rs.16,21,000/-**
	Interest	**9% per annum**

4. Learned counsel for the Insurance Company would contend that though in the chart reproduced in para 19 of the award it has been mentioned that compensation was being granted after applying a multiplier of '9'. However, while calculating the compensation a multiplier of '16' has been applied whereas a multiplier of '15' would be applicable as the age of the deceased was 38 years. Learned counsel for the Insurance Company would further contend that the amount awarded under the head 'loss of consortium' is on the higher side inasmuch as Rs.1,00,000/- has been awarded to each of

the three claimants i.e. claimant No.1 – Taranjit Kaur, claimant No.2 – Ramanjot Kaur and claimant No.3 – Parerna.

5. *Per contra* learned counsel for the claimants would contend that as per the postmortem report, the age of the deceased was 35 years at the time of accident and hence a multiplier of '16' has rightly been applied by the Tribunal while calculating the amount of compensation. It is further the contention that no addition has been made towards loss of future prospects and as per the age of the deceased being 35 years, an addition of 40% ought to have been made towards loss of future prospects. Learned counsel for the claimants would further contend that the amount awarded under the conventional heads is also not as per the law laid down by the Hon'ble Supreme Court. It has further been contended that no amount has been awarded towards filial consortium to the parents of the deceased.

6. Heard.

7. In the present case, as per the postmortem report, the deceased was 35 years of age at the time of accident and hence as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]** a multiplier of '16' has rightly been applied by the Tribunal. Though the deduction of $1/4^{th}$ has correctly been applied by the Tribunal, however, no addition has been made towards loss of future prospects. Keeping in view the age of the deceased and 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]**, 40% addition would have to be made towards loss of future

prospects. The Tribunal has not awarded any amount of compensation to the parents of the deceased towards filial consortium. Further, a sum of Rs.1,00,000/- each awarded to the three claimants i.e. the wife and the two minor children of the deceased towards loss of consortium and the amounts awarded under the conventional heads are not as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **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]**. Accordingly, the claimants would be entitled to Rs.48,000/- each towards loss of spousal, parental and filial consortium and Rs.18,000/- (Rs.15,000+20% increase) towards loss of estate and Rs.18,000/- (Rs.15,000+20% increase) towards funeral expenses.

8. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly Income	Rs.9,000/-
2	Annual Income	[Rs.9,000 x 12] = Rs.1,08,000/-
3	Deduction – 1/4th	[Rs.1,08,000 – 27,000] = Rs.81,000/-
4	Future Prospects - 40%	[Rs.81,000 + 32,400] = Rs.1,13,400/-
5	Multiplier - 16	[Rs.1,13,400 x 16] = Rs.18,14,400/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Spousal (ii) Parental (iii) Filial	 Rs.48,000/- [Rs.48,000 x 2] = Rs.96,000/- [Rs.48,000 x 2] = Rs.96,000/-
	Total	**Rs.20,90,400/-**

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.

10. In view of the above discussion, the appeal being FAO-3756-2016 filed by the claimants and the appeal being FAO-3203 filed by the Insurance Company are disposed off in the above terms. The award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

18.10.2024
jk

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