

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-684-2015 (O&M)
Reserved on : 24.01.2024
Date of decision : 08.02.2024

Kamlesh Devi and Others... Appellant(s)

Versus

Rajesh and Others... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. S.K. Yadav, Advocate for the appellants.
Mr. Sanjeev Goyal, Advocate for respondent No.3.

ALKA SARIN, J.

1. The present appeal has been preferred by the claimant-appellants challenging the award dated 16.08.2014 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as ‘the Tribunal’).
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.4,800/-
2	Annual income	[Rs.4,800 x 12] = Rs.57,600/-

3.	Deduction 1/10 th	[Rs.57,600 - 5,760] = Rs.51,840/-
4.	Multiplier of 12	[Rs.51,840 x 12] = Rs.6,22,080/-
5.	Transportation and last rites	Rs.20,000/-
6.	Love and affection	Rs.30,000/-
7.	Loss of consortium to the widow	Rs.1,00,000/-
8.	Total Compensation	Rs.7,72,080/-
	Interest	9% per annum

4. Learned counsel for the claimant-appellants would contend that the accident in the present case took place on 22.08.2012 and the age of the deceased at the time of the accident was 38 years. The learned counsel would further contend that though the income of the deceased was rightly assessed, however, 1/10th deduction was made whereas the same ought to have been 1/4th. It is further submitted by the learned counsel that no amount had been paid towards future prospects and that a multiplier of ‘12’ had wrongly been applied instead of ‘15’ and that the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are also not as per 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 **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642].**

5. Per contra, the learned counsel for respondent No.3-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 though has assessed the income correctly, however, it has applied a deduction of 1/10th which ought to be 1/4th. No amount has been awarded towards loss of future prospects and hence as per the law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition is made towards future prospects keeping in view the age of the deceased. The multiplier of ‘12’ as assessed by the Tribunal is also not as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** (supra) and accordingly, the same is applied as ‘15’. Further, the amounts awarded under the conventional heads and under the head ‘loss of consortium’ are also 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** (supra) and **N. Jayasree** (supra) and hence the claimants 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 claimants (wife, children and parents of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

8 Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4,800/-
2	Annual income	[Rs.4,800 x 12] = Rs.57,600/-
3	Deduction 1/4 th	[Rs.57,600 - 14,400] = Rs.43,200/-
4	Future prospects @ 40%	[Rs.43,200+ 17,280] = Rs.60,480/-

5	Multiplier of 15	[Rs.60,480 x 15] = Rs.9,07,200/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Parental (ii) Filial (iii) Spousal's	Rs.96,000/- (48,000 x 2) Rs.96,000/- (48,000 x 2) Rs.48,000/- (Total Rs.2,40,000/-)
9	Total Compensation	Rs.11,83,200/-
10	Amount Awarded by the Tribunal	Rs.7,72,080/-
	Enhanced amount	Rs.4,11,120/-

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7% 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 claimants 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.

08.02.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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