

743

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-853-2014 (O&M)
Date of decision : 15.02.2024

Komal & Ors. ... Appellant(s)
Versus
Shakeel @ Mohd. Shakeel & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vipul Sharma, Advocate (*Amicus Curiae*),
for the appellants.
Mr. Lalit Garg, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. None had put in appearance on behalf of the appellants on 08.04.2017. Today also none has put in appearance on behalf of the appellants. In view thereof, Mr. Vipul Sharma, Advocate (Enrollment No.P/1401/2012), who is present in Court, is appointed as *amicus curiae* to assist this Court on behalf of the appellants. An amount of Rs.15,000/- is assessed as his fees which shall be paid by the Punjab and Haryana High Court Legal Services Committee.
2. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Ambala vide award dated 27.09.2013.
3. 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.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.4,200/-
2	Annual Income	[Rs.4,200x12] = Rs.50,400/-
3	Deduction 1/3 rd	[Rs.50,400-16,800] = Rs.33,600/-
4	Multiplier - 15	[Rs.33,600x15] = Rs.5,04,000/-
5	Loss of estate, Funeral expenses, Loss of consortium	Rs.9,500/-
	Total Compensation	Rs.5,14,000/- (rounded off)
	Interest	7.5%

5. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed as Rs.4,200/- per month as the minimum wage prevailing at the time of the accident was Rs.4,847/- per month. It is further the contention of the learned counsel that though a multiplier of ‘15’ as well as a deduction of 1/3rd was applied correctly, however, no addition has been awarded towards future prospects which ought to have been 40%. It is further the contention of the learned counsel that the amount awarded under the conventional heads as well as under the head ‘loss of consortium’ is 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 **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].

6. *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.

7. I have heard the learned counsel for the parties.

8. In the present case the Tribunal has assessed the income of the deceased as Rs.4,200/- per month, however, the minimum wage prevailing at the time of the accident was Rs.4,847/- per month and hence the income of the deceased is assessed as Rs.4,847/- per month. Further, the Tribunal has though rightly applied a multiplier of '15' as well as deduction of $\frac{1}{3}^{\text{rd}}$, however, no addition has been made towards 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. Further, the amount awarded under the conventional heads and under the head 'loss of consortium' is 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 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 (widow, daughter and parents of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

9. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.4,847/-
2	Annual Income	[Rs.4,847x12] = Rs.58,164/-
3	Deduction 1/3 rd	[Rs.58,164-19,388] = Rs.38,776/-
4	Future Prospects - 40%	[Rs.38,776+15,511] = Rs.54,287/-
5	Multiplier - 15	[Rs.54,287x15] = Rs.8,14,305/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Parental (ii) Filial (iii) Spousal	[Rs.48,000/-x1] = Rs.48,000/- [Rs.48,000/-x2] = Rs.96,000/- Rs.48,000/- (Total Rs.1,92,000/-)
	Total Compensation	Rs.10,42,305/-

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 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.

15.02.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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