IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104 **FAO No.924 of 2014 (O&M)**
Date of Decision : 29.04.2024

Oriental Insurance Co. Ltd. ....Appellant

VERSUS

Amandeep Kaur and Others .....Respondents

104-1 **FAO No.6248 of 2015 (O&M)**

Amandeep Kaur and Others ....Appellants

VERSUS

Krishan Gopal and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashwani Talwar, Advocate
for the appellant-Insurance Company in FAO-924-2014 and
for respondent No.5 in FAO-6248-2015.

Mr. Rakesh Gupta, Advocate
for the claimant-appellants in FAO-6248-2015 and
for respondent Nos.1 to 4 in FAO-924-2014.

Mr. Aman Sharma, Advocate
for respondent Nos.5, 7 and 8 in FAO-924-2014 and
for respondent No.1, 3 and 4 in FAO-6248-2015.

Mr. Ravi Gakhar, Advocate
for respondent No.6 in FAO-924-2014 and
for respondent No.2 in FAO-6248-2015.

ALKA SARIN, J. (Oral)

1. This common order will dispose off both the above captioned appeals being FAO-924-2014 filed by the Insurance Company and FAO-6248-2015 filed by the claimants challenging the quantum of compensation

awarded by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the 'Tribunal') vide award dated 20.11.2013.

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. The Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.9,000/-
2	Annual income	[Rs.9,000 x 12] = Rs.1,08,000/-
3	Amount after applying deduction 1/3rd	[Rs.1,08,000 – 36,000] = Rs.72,000/-
4	Future prospects @ 50%	[Rs.72,000 + 36,000] = Rs.1,08,000/-
5	Multiplier of 16	[Rs.1,08,000 x 16] = Rs.17,28,000/-
6	Loss of Consortium	Rs1,00,000/-
7	Loss of care and guidance for minor children	Rs.20,000/-
8	Funeral expenses	Rs.25,000/-
9	Amount of treatment	Rs.73,854/-
	Total Compensation	**Rs.19,46,854/-**
	Interest	**7.5% per annum**

3. Learned counsel for the Insurance Company has contended that income of the deceased was assessed by the Tribunal as Rs.9,000/- per month considering the fact that he was running a carpentry shop and would have been earning Rs.300/- to 400/- per day. There is no evidence coming forth to show that the deceased was running a carpentry shop and hence the Tribunal has erred in assessing the income of the deceased as Rs.9,000/-. Even if at best the deceased is taken to be a carpenter, the income of a highly skilled worker at the relevant time was Rs.5,600/- per month. It is further the contention that the Tribunal has made an addition of 50% towards loss of future prospects. The deceased in the present case was 33 years of age and

hence keeping in view 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]**, an addition of 40% ought to have been made towards loss of future prospects of the deceased. It has further been contended that an amount of Rs.25,000/- has been granted towards funeral expenses of the deceased. However, as per law laid down by the Hon'ble Supreme Court in cases of **Pranay Sethi** *(supra)* and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**, the claimants would be entitled to Rs.18,000/- (Rs.15,000+20% increase) towards funeral expenses. It is further the contention the amount awarded under the head 'loss of consortium' is also not in accordance with the law laid down by the Hon'ble Supreme Court. However, no challenge has been laid by learned counsel for the Insurance Company to deduction towards personal expenses of the deceased and the multiplier applied by the Tribunal.

4. *Per contra* learned counsel for the claimants would contend that the Tribunal has rightly assessed the income of the deceased as Rs.9,000/- on the basis of evidence produced on the record. It has been contended that no amount has been awarded by the Tribunal towards loss of estate and that the amount awarded under the head 'loss of consortium' is also not in accordance with the law. No challenge has been laid by learned counsel for the claimants to deduction towards personal expenses of the deceased, addition towards loss of future prospects and the multiplier applied by the Tribunal.

5. Heard.

6. The Tribunal has wrongly assessed the income of the deceased as Rs.9,000/- per month. There is no evidence produced on the record to show that the deceased was running a carpentry shop earning Rs.9000/- per month, except for the statement of his father, who himself was working as a carpenter. The Tribunal taking into account the fact that the father of the deceased was a carpenter held that possibility of the deceased being a carpenter cannot be ruled out. However, even if the deceased is taken to be a carpenter the minimum wages prevailing at the relevant time for a highly skilled worker was Rs.5,600/- per month and hence the income of the deceased is taken as Rs.5,600/- per month. Further, the deceased was 33 years of age at the time of accident and the Tribunal has made an addition of 50% towards loss of future prospects, which ought to have been 40% in view of the law laid down by the Hon'ble Supreme Court in case of **Pranay Sethi** *(supra)*. Under the conventional heads, 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 as per the law laid down in the cases of **Pranay Sethi** (supra) and **N. Jayasree** (supra). The claimants, who are widow, son and parents of the deceased, would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. The amount of Rs.73,854/- awarded by the Tribunal towards medical treatment of the deceased is maintained.

7. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.5,600/-
2	Annual income	[Rs.5,600 x 12] = Rs.67,200/-
3	Deduction 1/3rd	[Rs.67,200 – 22,400] = Rs.44,800/-
4	Future prospects @ 40%	[Rs.44,800 + 17,920] = Rs.62,720/-

5	Multiplier of 16	[Rs.62,720 x 16] = Rs.10,03,520/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Filial (ii) Spousal (iii) Parental	 [Rs.48000 x 2] = Rs.96,000/- Rs.48,000/- Rs.48,000/- (Total Rs.1,92,000/-)
9	Medical treatment as awarded by the Tribunal	Rs.73,854/-
	Total Compensation	**Rs. 13,05,374/-**

8. In view of the above discussion, the impugned award of the Tribunal is modified; the appeal being FAO-924-2014 filed by the Insurance Company is allowed and the appeal being FAO-6248-2015 filed by the claimants stands disposed off with the above modification. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

29.04.2024
jk

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