IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

305 **FAO-104-2017 (O&M)**
Date of Decision : 06.11.2024

Sukhbir @ Satbir and Another ....Appellants

VERSUS

Kawal Preet and Others ....Respondents

305-1 **FAO-618-2017 (O&M)**

Saroj Bala ....Appellant

VERSUS

Kawal Preet and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Surinder Singh Virk, Advocate
for the appellants in FAO-104-2017 and
for respondent Nos.3 and 4 in FAO-618-2017.

Mr. Naresh Prabhakar, Advocate
for the appellant in FAO-618-2017 and
for respondent No.3 in FAO-104-2017.

Mr. Vishal Aggarwal, Advocate
for respondent No.2-Insurance Company in both the appeals.

ALKA SARIN, J. (Oral)

1. This common order shall dispose off both the above-captioned appeals being FAO-104-2017 filed by the parents of the deceased and FAO-618-2017 filed by the widow of the deceased – Satish – challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as the 'Tribunal') vide award dated 26.07.2016.

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

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.5,000/-
2	Annual Income	[Rs.5,000 x 12] = Rs.60,000/-
3	Deduction 1/3rd	[Rs.60,000 – 20,000] = Rs.40,000/-
4	Multiplier of 17	[Rs.40,000 x 17] = Rs.6,80,000/-
5	Loss of estate	Rs.5,000/-
6	Funeral expenses	Rs.25,000/-
7	Loss of consortium	Rs.1,00,000/-
8	Loss of love and affection to parents @ Rs.50,000/- each	Rs.1,00,000/-
	Total Compensation	**Rs.9,10,000/-**
	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.5,000/- per month and 1/3rd deduction and a multiplier of '17' have also correctly been applied, however, no addition has been made towards loss of future prospects. It is further the contention that amounts awarded under the conventional heads are not in accordance with law and need to be re-worked out. In support of their contentions, they have 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]**.

4. *Per contra* learned counsel for respondent No.2-Insurance Company would contend that the amount awarded under the head ‘loss of consortium’ is already on the higher side and hence there is no scope of any further enhancement. He, however, not in a position to deny the fact that no addition has been made towards loss of future prospects.

5. Heard.

6. In the present case the Tribunal has assessed the income of the deceased as Rs.5,000/- per month and has correctly applied a deduction of 1/3rd and a multiplier of ‘17’. However, no addition has been made towards loss of future prospects. The deceased in the present case was 29 years of age and as per the law laid down by the Hon’ble Supreme Court in case of **Pranay Sethi** *(supra),* an addition of 40% ought to have been made towards loss of future prospects. Further, the amount awarded under the conventional heads is not in accordance with 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 argument of learned counsel for respondent No.2-Insurance Company that the amount awarded under the head ‘loss of consortium’ is on the higher side deserves to be rejected as no appeal or cross-objections have been filed by the Insurance Company and hence the amount awarded by the Tribunal under the head ‘loss of consortium’ is maintained.

7. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.5,000/-
2	Annual Income	[Rs.5,000 x 12] = Rs.60,000/-
3	Deduction – 1/3rd	[Rs.60,000 – 20,000] = Rs.40,000/-
4	Future Prospects - 40%	[Rs.40,000 + 16,000] = Rs.56,000/-
5	Multiplier - 17	[Rs.56,000 x 17] = Rs.9,52,000/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	<u>Loss of consortium</u> (i) Spousal (ii) Filial	 Rs.1,00,000/- Rs.1,00,000/- [Rs.50,000 x 2] Rs.2,00,000/-
	Total	**Rs.11,88,000/-**

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, both the appeals filed by the claimants 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)
06.11.2024 **JUDGE**
jk

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