2024:PHHC:147549

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision : 12.11.2024

298 **FAO-7746-2016 (O&M)**

BALJIT KAUR AND ANR .... Appellants

VERSUS

DARSHAN SINGH AND ORS .... Respondents

AND

298-A **FAO-8500-2015 (O&M)**

IFFCO TOKIO GENERAL INS. CO. LTD. .... Appellant

VERSUS

BALJIT KAUR AND ORS .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Jasleen Chandhok, Advocate
for the claimant-appellants in FAO-7746-2016
for claimant-respondents No.1 and 2 in FAO-8500-2015.

Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate
for the Insurance Company-appellant in FAO-8500-2015
for Insurance Company-respondent No.3 in FAO-7746-2016.

Mr. Himanshu Chhabra, Advocate for
Mr. Anil Saini, Advocate
for respondents No.1 and 2 in FAO-7746-2016
for respondents No.3 and 4 in FAO-8500-2015.

ALKA SARIN, J. (ORAL)

1. The present common order shall dispose off both the above-captioned appeals being FAO-7746-2016 filed by the claimants and FAO-8500-2015 filed by the Insurance Company. Both the claimants and the

Insurance Company have approached this Court aggrieved by the award dated 29.07.2015 passed by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') qua the quantum of compensation.

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	₹40,000
2.	Less income Tax	[₹40,000 - ₹1,000] = ₹39,000
3.	Annual income	[₹39,000 x 12] = ₹4,68,000
4.	Deduction 1/3rd	[₹4,68,000 - ₹1,56,000] = ₹3,12,000
5.	Future prospects 25%	[₹3,12,000 + ₹78,000] = ₹3,90,000
6.	Multiplier of '11'	[₹3,90,000 x 11] = ₹42,90,000
7.	Funeral expenses	₹25,000
8.	Loss of consortium	₹1,00,000
9.	Loss of care and guidance	₹30,000
10.	**Total Compensation**	₹44,45,000
	Interest	@ 9% per annum

4. Learned counsel for the claimants would contend that the agricultural income, which was earned by the deceased, namely, Bikkarjit Singh has not been taken into account while assessing his income. It is further the contention that multiplier of '11' has been applied, however, the same ought to have been '13' 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]. It is further the contention that the amount awarded under the conventional heads are also on the lower side. Learned counsel for the claimants has further relied upon **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*, learned counsel for the Insurance Company would contend that the income of the deceased has rightly been assessed and that since there was no evidence on the record that any crop was being sold by the deceased and in the absence of any such document the income from the agricultural land has correctly not been added while assessing his income. It is further the contention that an addition of 15% ought to have been made towards future prospects, however, erroneously an addition of 25% has been made. It is further the contention that the amount awarded under the head loss of consortium is on the higher side. In support of her contentions the learned counsel for the Insurance Company 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]**.

6. Heard.

7. In the present case it has come on the record that the date of birth of the deceased, as per the service book (Ex.CW-3/A), was 18.06.1963 which comes to 50 years 10 months and 6 days at the time of the accident i.e. on 24.04.2014. The argument of the learned counsel for the claimants that agricultural income has not been taken into account while assessing the

income of the deceased deserves to be rejected. The Tribunal had noticed that though a jamabandi (Ex.C-3) was placed on the record, however, no 'J' Form regarding any sale of crop or any other documentary proof to show that there was any income being generated from the agricultural land was produced on the record. In the absence of any evidence, the salary of the deceased has rightly been assessed as ₹39,000. There is no challenge to the deduction of 1/3rd made and hence the same is maintained. The argument of the learned counsel for the Insurance Company that an addition of 25% has erroneously been made towards future prospects deserves to be accepted, inasmuch as, as per **Pranay Sethi's** case (supra) an addition of 15% is to be made towards future prospects to the income of the deceased who was above 50 years. As noticed above, the age of the deceased at the time of the accident was 50 years 10 months and 6 days and hence an addition of 15% ought to have been made towards the future prospects. Keeping in view the age of the deceased, who was not 51, a multiplier of '13' would be applicable and not of '11'. The Tribunal had awarded an amount of ₹25,000 towards funeral expense; a sum of ₹1,00,000 to the wife under the head loss of consortium and a sum of ₹30,000 to the minor daughter towards loss of care and guidance. The amount awarded under the conventional heads and under the head 'loss of consortium' are reworked out 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). Accordingly, the claimants would be entitled to ₹18,000 (₹15,000 + 20% increase) towards loss of estate; ₹18,000 (₹15,000 + 20% increase) towards funeral expenses and the claimants (being wife and minor daughter of the deceased) would also be entitled to ₹96,000 [₹48,000 each (₹40,000 + 20% increase)] towards loss of consortium.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹40,000
2.	Less income Tax	[₹40,000 - ₹1,000] = ₹39,000
3.	Annual income	[₹39,000 x 12] = ₹4,68,000
4.	Deduction 1/3rd	[₹4,68,000 - ₹1,56,000] = ₹3,12,000
5.	Future prospects 15%	[₹3,12,000 + ₹46,800] = ₹3,58,800
6.	Multiplier of '13'	[₹3,58,800 x 13] = ₹46,64,400
7.	Funeral expenses	₹18,000
8.	Loss of estate	₹18,000
9.	Loss of consortium	₹96,000
	Total Compensation	₹47,96,400

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% 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, both the appeals are disposed off and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

12.11.2024 **(ALKA SARIN)**
Aman Jain **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No