

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

897

FAO No.6929 of 2017 (O&M)
Date of Decision : 30.04.2024

Suman and Others

....Appellants

VERSUS

Daya Kishan and Others

....Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sarvesh Malik, Advocate for the appellants.
Mr. Aseem Aggarwal, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as the ‘Tribunal’) vide award dated 01.03.2017.
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 had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.8,000/-
2	Annual income	[Rs.8,000 x 12] = Rs.96,000/-
3	Deduction 1/3 rd	[Rs.96,000 – 32,000] = Rs.64,000/-
4	Multiplier of 11	[Rs.64,000 x 11] = Rs.7,04,000/-
5	Loss of consortium	Rs.1,00,000/-
6	Loss of love and affection	Rs.1,00,000/-
7	Funeral expenses and transportation	Rs.25,000/-

	Total Compensation	Rs.9,29,000/-
	Interest	7.5% per annum

3. Learned counsel for the claimant-appellants would contend that though there was no documentary proof on record regarding the age of the deceased, however, as per the postmortem report the deceased was 50 years of age but the Tribunal has taken the age of the deceased to be 51 years. Learned counsel for the claimant-appellants would further contend that no addition has been made towards loss of future prospects and as per age of the deceased and keeping in view the law laid down by the Hon’ble Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, an addition of 15% ought to have been made towards loss of future prospects. It has further been contended that the Tribunal has applied a multiplier of ‘11’, which keeping in view the age of the deceased, ought to have been ‘13’. No challenge has been laid *qua* income and deduction towards personal expenses of the deceased.

4. *Per contra*, learned counsel for respondent No.3-Insurance Company has contended that sufficient amount of compensation has already been awarded in the present case and that there is no scope of any enhancement. It has further been contended that the amount awarded under the conventional heads and under the head ‘loss of consortium’ is not in accordance with law.

5. Heard.

6. In the present case, though there was no documentary proof regarding the age of the deceased, however, the claimant-appellants had stated that the age of the deceased was 51 years. As per postmortem report

(Ex.P6) the deceased was 50 years of age and hence this Court deems it appropriate to assess the age of the deceased as 50 years. The notional income of the deceased has been taken as Rs.8,000/- per month, which has not been challenged by the claimant-appellants. The Tribunal has applied 1/3rd deduction towards personal expenses of the deceased, which again has not been challenged by the claimant-appellants. Further, keeping in view the age of the deceased as 50 years as per the postmortem report, the multiplier ought to be ‘13’ instead of ‘11’ and an addition of 15% would have to be made towards loss of future prospects as the deceased was a pensioner. Further, the amount awarded under the conventional heads as well as under the head ‘loss of consortium’ is not in accordance with the law laid down by the Hon’ble Supreme Court in cases of **Pranay Sethi (supra), 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]** 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. The claimant-appellants, who are widow and children of the deceased, would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

7. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.8,000/-
2	Annual income	[Rs.8,000 x 12] = Rs.96,000/-
3	Deduction 1/3 rd	[Rs.96,000 – 32,000] = Rs.64,000/-

4	Future prospects @ 15%	[Rs.64,000 + 9600] = Rs.73,600/-
5	Multiplier 13	[Rs.73,600 x 13] = Rs.9,56,800/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Consortium : (i) Parental (ii) Spousal's	Rs.96,000/- (48,000 x 2) Rs.48,000/- (Total Rs.1,44,000/-)
	Total Compensation	Rs.11,36,800/-

8. 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 the realization of the entire amount. The amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

9. 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.

30.04.2024
jk

(ALKA SARIN)
JUDGE

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