IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

651 **FAO No.3150 of 2012**
Date of Decision : 02.04.2024

Sukhdeep Kaur and Others ....Appellants

VERSUS

Nirmal Singh and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Atul Jain, Advocate for the appellants.

Ms. Arzoo Modi, Advocate for
Mr. Mohd. Yousaf, Advocate for respondent No.3.

Mr. D.P. Gupta, Advocate for respondent No.4.

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, Patiala (hereinafter referred to as the 'Tribunal') vide award dated 16.02.2012.

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	Rs.8,000/-
2	Annual income	[Rs.8,000 x 12] = Rs.96,000/-

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3	Deduction 1/3rd	[Rs.96,000 – 32,000] = Rs.64,000/-
4	Multiplier of 15	[Rs.64,000 x 15] = Rs.9,60,000/-
5	Funeral expenses	Rs.10,000/-
6	Loss of consortium	Rs.10,000/-
	Total Compensation	**Rs.9,80,000/-**
	Interest	**6% per annum**

4. Learned counsel for the claimant-appellants would contend that there is no dispute regarding the income of the deceased. The Tribunal has assessed the income of the deceased as Rs.8,000/- per month. Though the Tribunal has rightly applied a deduction of 1/3rd and a multiplier of 15, however, no addition has been made towards loss of future prospects which ought to have been 40% and 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]**.

5. *Per contra*, the learned counsel for respondent No.4 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.

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

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7. In the present case the Tribunal has though rightly assessed the income of the deceased as Rs.8,000/- per month and also correctly applied a deduction of 1/3rd and a multiplier of 15, however, the Tribunal has not made any addition towards loss of future prospects. The deceased in the present case was 37 years of age 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 loss of 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 (wife, son and mother of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

8. 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 1/3rd	[Rs.96,000 - 32,000] = Rs.64,000/-
4	Future Prospects - 40%	[Rs.64,000 + 25,600] = Rs.89,600/-
5	Multiplier - 15	[Rs.89,600 x 15] = Rs.13,44,000/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Parental (ii) Spousal (iii) Filial	 Rs.48,000/- Rs.48,000/- Rs.48,000/- (Total Rs.1,44,000/-)
	Total	**Rs.15,24,000/-**

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9. 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.

10. Though no appeal has been preferred by the driver and the owner, however, learned counsel for the claimant-appellants has relied upon a judgment of the Hon'ble Supreme Court in case of **National Insurance Co. Ltd. vs Swaran Singh & Ors. [2004 (2) RCR (Civil) 114]** to contend that at the first instance the Insurance Company has to satisfy the award and then the Insurance Company would have the right to recover the awarded amount from the owner and the driver.

11. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal stands modified. So far as payment of compensation is concerned, at the first instance the respondent No.4-Insurance Company shall satisfy the award and would have the right to recover the same from owner and driver of the offending vehicle in accordance with the law. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
02.04.2024 **JUDGE**
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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO

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