2024:PHHC:037191

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-104-2013 (O&M)
Date of decision : 14.03.2024

Sobha Devi & Anr. ... Appellant(s)

Versus

Vijay Kumar Morya & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rakesh Dhiman, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, 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, Sonipat (hereinafter referred to as 'Tribunal'), vide award dated 31.05.2012.

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.3,000/-
2	**Annual Income**	[Rs.3,000x12] = Rs.36,000/-
3	**Deduction 50%**	[Rs.36,000-18,000] = Rs.18,000/-

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4	**Multiplier - 13**	[Rs.18,000x13] = Rs.2,34,000/-
5	**Funeral expenses**	Rs.2,500/-
6	**Total Compensation**	**Rs.2,36,500/-**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed as Rs.3,000/- per month as the minimum wage of an unskilled worker prevailing at the time of the accident was Rs.4,214/- per month. It is further the contention of the learned counsel that though the deduction of 50% has rightly been applied by the Tribunal, however, multiplier '13' has wrongly been applied, whereas it ought to have been '18' keeping in view the age of the deceased being 22 years at the time of the accident. It is further the contention of the learned counsel that no amount has been awarded towards future prospects as well as under the head 'loss of consortium' and further that the amount awarded under the conventional heads is also on the lower side. In support of his contentions he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121], 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]**.

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

7. In the present case, the Tribunal has assessed the income of the deceased as Rs.3,000/- per month, however, the minimum wage of an unskilled worker prevailing at the time of the accident was Rs.4,214/- per month and hence the income of the deceased is assessed as Rs.4,214/- per month. The Tribunal has though rightly applied deduction to the extent of 50%, however, multiplier '13' has wrongly been applied and hence, as per the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** (supra), multiplier '18' would be applicable keeping in view the age of the deceased being 22 years at the time of the accident. Further, no addition has been made towards future prospects 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 future prospects. Further, the amount awarded under the conventional heads is on the lower side and no amount has been awarded under the head 'loss of consortium' 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/-

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(Rs.15,000+20% increase) towards funeral expenses and the claimant-appellants (parents of the deceased) would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	**Monthly Income**	Rs.4,214/-
2	**Annual Income**	[Rs.4,214x12] = Rs.50,568/-
3	**Deduction 50%**	[Rs.50,568-25,284] = Rs.25,284/-
4	**Future Prospects - 40%**	[Rs.25,284+10,114] = Rs.35,398/-
5	**Multiplier - 18**	[Rs.35,398x18] = Rs.6,37,164/-
6	**Loss of estate**	Rs.18,000/-
7	**Funeral expenses**	Rs.18,000/-
8	**Loss of consortium** (i) Filial	[Rs.48,000/-x2] = Rs.96,000/-
	Total Compensation	**Rs.7,69,164/-**

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.

14.03.2024 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

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

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