# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**FAO-7300-2016 (O&M)**
**Date of Decision: March 15, 2024**

Sunita and others

...Appellants

VERSUS

Royal Sundaram Allianz Insurance Co. Ltd. and others

...Respondents

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Surinder Gaur, Advocate
for the appellants.

Mr.Ravinder Arora, Advocate
for respondent No.1.

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**ARCHANA PURI, J.**

The present appeal has been filed by appellants-claimants, thereby, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Mandeep, in a motor vehicular accident, which took place on 17.07.2014.

At the very outset, it is pertinent to mention that FAO-1258-2016 was filed by the respondent No.1-insurance company, thereby, assailing the impugned Award, on the quantum only. Vide judgment dated 09.11.2016, the aforesaid appeal was dismissed. Be it noted that, now the appeal in hand, is only for enhancement of the compensation.

Undisputedly, from the evidence on record, it stands established that deceased Mandeep was 15 years old and was studying in 10th class. Though, the appellants-claimants had asserted about the indulgence of the deceased in agricultural work, but however, no evidence, as such, has come on record, relating to the same and considering the same, learned Tribunal had assessed the notional income of the deceased as Rs.2000/- per month, annual whereof, was Rs.24,000/-. While taking it be so and considering the age of the parents, multiplier of '15' was applied and the compensation was worked upon as Rs.3,60,000/-. Besides the same, Rs.10,000/- was granted, on the count of 'last rites' and another Rs.1 lakh was granted, towards loss of love and affection. In total, compensation to the extent of Rs.4,70,000/- was granted. However, the aforesaid compensation was granted to the parents of the deceased only, in equal proportions.

The compensation, so worked upon, definitely, as per settled prevalent law, calls for re-determination.

Learned Tribunal has appropriately considered the age of the deceased to be 15 years. However, since the deceased was studying at the relevant time, his earnings, so assessed, is on lower side.

In this regard, learned counsel for respondent No.1-insurance company has submitted that in FAO-1258-2016, the assertion of the insurance company was denied, keeping in view the judgment passed by the Hon'ble Supreme Court in ***Kishan Gopal and another vs. Lala and others, 2013(4) RCR (Civil) 276***, and in the light of the recitals of the said judgment, it is submitted that notional income of the deceased be taken as Rs.30,000/- per annum.

However, the aforesaid submission is not tenable. It is pertinent to mention that in ***Kishan Gopal's case (supra)***, while considering the death of a child, aged 10 years, the Court had taken the notional income of the deceased as Rs.30,000/- per annum and multiplier of **'15'** was applied and compensation, was worked upon as Rs.4.5 lakh. Beside the same, Rs.50,000/- was given towards love, affection, funeral expenses and last rites. However, it is pertinent to mention that in the aforesaid case, the accident related to the year 1992. Since then, long time had flown and keeping in view the value of rupee having scaled down, in the fitnesss of circumstances, more particularly, considering the deceased to be student, at the relevant time, his earnings, very proximate to the reality, is taken as Rs.40,000/- per annum, which is inclusive of future prospects.

As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the suitable multiplier of '18' is to be applied. Thus, applying the aforesaid multiplier, the compensation works out to be Rs.40000x18=**Rs.7,20,000/-**.

Besides the aforesaid, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, under the conventional heads, the compensation ought to be paid, on the count of 'loss of consortium', 'loss of estate' and 'funeral expenses'. Considering the clause of enhancement to the extent of 10%, after every three years of passing of the judgment in the aforesaid case, the amounts to be granted at present, on the aforesaid three counts, is to the extent of **Rs.48,400/-**, **Rs.18,150/-** and **Rs.18,150/-,** respectively.

However, as per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, spouse, parents as well as siblings of the deceased, are entitled to 'parental', 'spousal' or 'filial' consortium.

Keeping in view the same, since appellants-claimants No.3 and 4, who are brother and sister of the deceased, though, may not be taken to be, as such, dependent upon the deceased, during the lifetime of the parents, who are still of young age, but however, they have been deprived of the bond with their deceased brother and under the conventional head of 'loss of consortium', they are entitled to 'filial consortium' to the extent of Rs.48,400/- each.

Even though, vide impugned Award, a sum of Rs.1 lakh has been granted, on the count of 'love and affection', but however, as per ***Magma's case (supra)***, no separate amount is to be given on the count of 'love of affection', as it is comprehended under the head of 'loss of consortium', which view, has been further endorsed by the larger Bench of Hon'ble Supreme Court in '***United India Insurance Company Ltd. vs. Satinder Kaur alias Satvinder Kaur and others, 2020 SCC Online 410***'.

Considering the same, the compensation payable to the appellants-claimants, on account of death of Mandeep, is re-computed, as herein given:-

| | | |
|---|---|---|
| **Loss of dependency** | : | **Rs.7,20,000/-** |
| **Loss of consortium (four claimants)** | : | **Rs.1,93,600/-** |
| **Loss of estate** | : | **Rs.18,150/-** |
| **Funeral expenses** | : | **Rs.18,150/-** |
| **Total** | : | **Rs.9,49,900/-** |

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.9,49,900-4,70,000=Rs.4,79,900/-**. Out of the enhanced compensation, appellants-claimants No.3 and 4, are held entitled to Rs.48,400/- each, whereas, appellants-claimants No.1 and 2, are held entitled to residue amount of Rs.3,83,100/- in equal shares. On the enhanced amount of the compensation i.e. **Rs.4,79,900/-**, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

With the above observations, the present appeal stands allowed.

**March 15, 2024** **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**