



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-3927-2019 (O&M)

Date of Decision : 07.02.2025

Parmod Devi & Ors ... Appellant(s)
Versus
Naresh Kumar & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Lipika Dahiya Mamli, Advocate for the appellants.
Mr. D.K. Prajapati, 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, Yamuna Nagar at Jagadhri vide the impugned award dated 15.03.2019.
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	₹8,070/-
2	Deduction 50%	[₹8,070 – 4,035] = ₹4,035/-
3	Annual income	[₹4,035 x 12] = ₹48,420/-
4	Future prospects 30%	[₹48,420 + 14,256] = ₹62,946/-
5	Multiplier of 13	[₹62,946 x 13] = ₹8,18,298/-
6	Funeral expenses	₹15,000/-

7	Loss of estate	₹15,000/-
8	Loss of consortium	₹40,000/-
	Total Compensation	₹8,88,298/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants has not laid any challenge to the multiplier of ‘13’ as well as to the future prospects @ 30% as applied by the Tribunal. She, however, states that the income of the deceased has wrongly been assessed as ₹8,070/- per month as per minimum wages of an unskilled worker instead of a skilled worker inasmuch as the deceased was an agriculturist possessing agricultural land as is apparent from the jamabandi for the year 2008-09 proved on record as Ex.P6, which he was cultivating. Though the land remained with the claimant-appellants, however, they would need to employ a Manager to look after the said land and the minimum wages of a skilled worker at the relevant time were ₹9,342/- per month and, hence, the income of the deceased ought to have been assessed as ₹9,342/- per month. It is further the contention of the learned counsel for the claimant-appellants that 50% deduction has wrongly been applied by the Tribunal inasmuch as there were four dependents upon the deceased and, hence, 1/4th deduction ought to have been applied. It is further the contention of the learned counsel that the amounts awarded under the conventional heads and under the head ‘loss of consortium’ are not as per the law laid down by the Hon’ble Supreme Court. In support of her contentions, she 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.3-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, since no challenge has been laid by the learned counsel for the claimant-appellants qua multiplier of '13' and future prospects @ 30% as applied by the Tribunal and keeping in the fact that no appeal has been filed by the Insurance Company (respondent No.3 herein), the same are maintained.

8. The income of the deceased, in the present case, has wrongly been assessed by the Tribunal as per the minimum wages of an unskilled worker which ought to have been of a skilled worker inasmuch as the deceased was an agriculturist possessing certain land as is apparent from the jamabandi for the year 2008-09 proved on record as Ex.P6. After death of the deceased there is however a possibility that the claimant-appellants may be required to engage persons to look after agriculture cultivation. Hon'ble Supreme Court in case of **State of Haryana & Anr. vs. Jasbir Kaur & Ors. [2003 (4) RCR (Civil) 140]** has held under :

"8. It is clear on a bare reading of the Tribunal's decision as affirmed by the High Court that no material was placed before the former to prove as to what was the

income. As rightly contended by learned counsel for the appellants, there was not even any material adduced to show type of land which the deceased possessed. The matter can be approached from a different angle. The land possessed by the deceased still remains with the claimants as his legal heirs. There is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly applicable to cases where agricultural income is the source. Attendant circumstances have to be considered. Furthermore, there was no material before the Tribunal to arrive at the figure of Rs.4500 per month. No reason has been indicated to arrive at this figure. In the light of what has been discussed above about "just compensation" the income cannot be estimated without any material to justify the estimation. In the normal course, we would have remitted the matter back to the Tribunal for fresh consideration. But considering the fact that one young person lost his life, and the matter was pending before the Tribunal and the High Court for some years, we feel it appropriate to take all relevant factors into consideration, and decide the matter. Gauzing the relevant aspects, noted above, the monthly income is fixed at Rs.3000/- per month and after deducting Rs.1,000/- for personal expenses, financial contribution so far as the claimants are concerned is fixed at Rs.2,000/- per month....."

Keeping in view the law laid down by the Supreme Court in the case of **Jasbir Kaur** (supra) and the fact that the deceased would have been managing the land, his income ought to have been assessed as that of a

skilled worker which, at the relevant point of time, was ₹9,342/- per month. Hence, the income of the deceased is assessed as ₹9,342/- per month. Further, 50% deduction has wrongly been applied by the Tribunal inasmuch as there were four dependents and, hence, deduction of 1/4th would be applicable. Further, the amounts awarded under the conventional heads and under the head ‘loss of consortium’ are 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 ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants (wife, two children and father of the deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹9,342/-
2	Annual Income	₹1,12,104/- [₹9,342 x 12]
3	Deduction 1/4 th	₹84,078/- [₹1,12,104 – 28,026]
4	Future Prospects - 30%	₹1,09,302/- [₹84,078 + 25,224]
5	Multiplier - 13	₹14,20,926/- [₹1,09,302 x 13]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 2] (ii) Filial (iii) Spousal's	₹96,000/- ₹48,000/- ₹48,000/- (Total ₹1,92,000/-)
	Total Compensation	₹16,48,926/-

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 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, the present appeal is allowed and the award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

07.02.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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