IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

269 **FAO-4945-2019 (O&M)**
Date of Decision : 08.01.2025

Anju Sharma and Others ....Appellants

VERSUS

Surinder Singh and Others ....Respondents

CORAM : HON'BLE MRS. **JUSTICE ALKA SARIN**

Present : Mr. Munish Gupta, Advocate for the appellants.

Mr. Suman Jain, 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, Hoshiarpur (hereinafter referred to as the 'Tribunal') vide award dated 02.05.2019 on account of death of Manoj Kumar @ Manoj Sharma (hereinafter referred to as the 'deceased').

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	Annual income	Rs.4,21,781/-
2	Future prospects - 30%	[Rs.4,21,781 + 1,26,534] = Rs.5,48,315/-
3	Income after applying deduction @ 1/4th	Rs.3,96,236/-

4	Multiplier of 14	[Rs. 3,96,236 x 14] = Rs.55,47,304/-
5	Loss of consortium to wife	Rs.40,000/-
6	Funeral expenses	Rs.15,000/-
7	Loss of estate	Rs.15,000/-
	Total Compensation	**Rs.56,17,304/-**
	Interest	**7% per annum**

4. Learned counsel for the claimant-appellants would contend that although it was specifically averred in the claim petition that the deceased was working as an executive in the Production Department of Winsome Textile Industries Limited, Chandigarh but the Tribunal has wrongly assessed the annual income of the deceased as per income tax return filed for the financial year 2017-18. He would further contend that the evidence led by the claimant-appellants qua the salary being drawn by the deceased at the time of his death has been totally ignored by the Tribunal. Learned counsel for the claimant-appellants has referred to the testimony of Sanjeev Kumar, Senior Manager of Winsome Textile Industries Limited, Chandigarh who stepped into the witness-box as AW2 and stated that he had brought the entire record to show that the deceased - Manoj Kumar - was drawing an annual salary package of Rs.6,12,804/- and this witness proved on record the salary certificate of the deceased as Ex.A4; details of the salary from the date of joining of the deceased till his death as Ex.A5; and Form 16-A for the Financial Years 2015-16, 2016-17 and 2017-18 as Ex.A6 to Ex.A8. Learned counsel for the claimant-appellants would further contend that he does not challenge the deduction, addition of future prospects and multiplier as applied by the Tribunal. However, it has been contended that the amount awarded under the head loss of consortium is not in accordance with law laid down by the

Hon’ble Supreme Court. In support of his contention, 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* learned counsel for respondent No.3 would contend that the amount of compensation has rightly been awarded by the Tribunal and further that the addition towards future prospects ought to have been 25%, which has erroneously been made as 30%. Learned counsel for the claimant-appellants, at this stage, fairly concedes that the addition towards loss of future prospects ought to be 25%.

6. Heard.

7. In the present case the Tribunal has erred in assessing the income of the deceased on the basis of income tax return for the Financial Year 2016-17 inasmuch as the evidence produced on record by the appellants i.e. the documents (Ex.A4 to Ex.A8) reveal that the annual salary package of the deceased was Rs.6,12,804/- and no contrary evidence was led by the respondents thereto before the Tribunal. Further, no reason has been pointed out to disbelieve the statement of Sanjeev Kumar, Senior Manager of Winsome Textile Industries Limited, Chandigarh who stepped into the witness-box as AW2 and proved on record the above documents. In view thereof, the annual income of the deceased is assessed as Rs.6,12,804/- as per his salary certificate proved on record as Ex.A4 out of which requisite income tax prevailing at the relevant assessment year is required to be deducted.

8. The Tribunal also erred in making an addition of 30% towards loss of future prospects inasmuch as the deceased in the present case was 42 years of age and as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), an addition of 25% ought to have been made towards loss of future prospects. Further, the amount awarded under the conventional heads and under the head of '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 would also be entitled to Rs.48,000/- each (Rs.40,000+20% increase) towards loss of consortium.

9. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual income	Rs.6,12,804/-
2	Annual income after deducting Rs.26,660/- towards income tax applicable at the relevant point of time	[Rs.6,12,804 – 26,660] = Rs.5,86,144/-
3	Deduction – 1/4th	[Rs.5,86,144 – 1,46,536] = Rs.4,39,608/-
4	Future prospects - 25%	[Rs.4,39,608 + 1,09,902] = Rs.5,49,510/-
5	Multiplier of 14	[Rs.5,49,510 x 14] = Rs.76,93,140/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Spousal (ii) Parental (iii) Filial	 Rs.48,000/- [Rs.48,000 x 2] = Rs.96,000/- [Rs.48,000 x 2] = Rs.96,000/- Rs.2,40,000/-
	Total	**Rs.79,69,140/-**

10. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7% per annum from the date of filing of the claim petition till the realization of the entire amount. The enhanced amount of compensation shall be apportioned amongst the claimant-appellants as directed by the Tribunal.

11. 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.

(ALKA SARIN)
JUDGE

08.01.2025
jk

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