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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7981-2015 (O&M)
Date of Decision : 23.01.2025

Ankit & Ors ... Appellant(s)

Versus

Sanjay & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Abhinav Kalia, Advocate for the appellants.

Mr. Abhishek Kumar Shukla, Advocate for
Mr. Akshay Jindal, Advocate for respondent Nos.1 and 2.

Mr. Punit 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, Karnal vide the impugned award dated 03.07.2015.

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	₹3,300/-
2	Future prospects 30%	[₹3,300 + 990] = ₹4,290/-
3	Multiplier of 16	[₹4,290 x 12 x 16] = ₹8,23,690/-

4	Funeral expenses	₹20,000/-
5	Love and affection	₹39,000/-
	Total Compensation	**₹8,82,290/-**
	Interest	**9% per annum**

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a homemaker and that her income has erroneously been assessed as Rs.3,300/- per month. The learned counsel for the claimant-appellants would further contend that the income of the deceased ought to have been assessed as Rs.5,547/- which was the minimum wages at the relevant time. The learned counsel would further contend that though the multiplier '16' has rightly been applied by the Tribunal, however, the Tribunal has awarded 30% future prospects which ought to have been 40% keeping in view the age of the deceased as 35 years and that the amounts awarded under the conventional heads as well as under the head 'loss of consortium' are 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]; N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]** and **Kirti & Anr. Vs. Oriental Insurance Company Ltd. [2021 (1) RCR (Civil) 478]**.

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 learned counsel for the parties.

7. In the present case, the Tribunal has assessed the income of the deceased, who was admittedly a homemaker, as Rs.3,300/- per month. A homemaker does much more than a single person can do. Infact, a homemaker performs multiple functions in the house i.e. cooking for the family, cleaning the house, washing cloths and utensils, the list is endless and thus, this Court deems it appropriate to assess the income of the deceased according to the minimum wages of an unskilled labourer prevailing at the time of accident which were ₹5,547/- per month and thus, the income of the deceased is assessed as ₹5,547/- per month.

8. Hon'ble Supreme Court in the case of **Kirti** (supra) has held as under:

> *42. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarized as follows:*
>
> > *a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.*
> >
> > *b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a*

> *recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.*
>
> *c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.*
>
> *d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.*
>
> *e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation."*

9. The deceased in the present case was 35 years and was a homemaker and keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Kirti** (supra), the claimant-appellants would be entitled to an addition of 40% towards future prospects. In the present case, there were four dependents and, hence, $1/4^{th}$ deduction would be applicable. There is no challenge to the multiplier as applied by the Tribunal and thus, multiplier of 16 is maintained. 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 claimants 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 (husband and three children of the deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. The rate of interest as awarded by the Tribunal is maintained. The amount of compensation to which the claimant-appellants are held entitled to, is re-calculated as under :

Sr. No.	Heads	Compensation Awarded	
1	Monthly Income	₹5,547/-	
2	Annual Income	₹66,564/-	[₹5,547 x 12]
3	Deduction 1/4th	₹49,923/-	[₹66,564 – 16,641]
4	Future Prospects - 40%	₹69,893/-	[₹49,923 + 19,970]
5	Multiplier - 16	₹11,18,288/-	[₹69,893 x 16]
6	Loss of estate	₹18,000/-	
7	Funeral expenses	₹18,000/-	
8	Loss of consortium (i) Parental [₹48,000/- x 3] (ii) Spousal's	 ₹1,44,000/- ₹48,000/- (Total ₹1,92,000/-)	
	Total Compensation	**₹13,46,288/-**	

10. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned as directed by the Tribunal.

11. In view of the above, the appeal filed by the claimants stands allowed and the impugned award is modified to the extent stated above. Pending applications, if any, also stand disposed off.

23.01.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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