IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

289 **FAO-3721-2017 (O&M)**
Date of Decision : 20.01.2025

KAUSHALYA RANI AND ORS. .... Appellants

VERSUS

BALJINDER SINGH AND ORS. .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kashish Garg, Advocate
for the appellants.

Service of respondents No.1 and 2 dispensed with
vide order dated 21.01.2019.

Mr. Lalit Garg, 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, Bathinda (hereinafter referred to as 'the Tribunal') vide award dated 22.09.2016.

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	₹5,675
2.	Deduction 1/3rd	[₹5,675 - ₹1,892] = ₹3,783
3.	Annual income	[₹3,783 x 12] = ₹45,396
4.	Multiplier '9'	[₹45,396 x 9] = ₹4,08,564
5.	Funeral expenses	₹25,000
6.	Loss of consortium	₹1,00,000
7.	Love and affection	₹3,00,000
	Total Compensation	**₹8,33,564**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellants would contend that the Tribunal has wrongly assessed the income of the deceased as ₹5,675 per month on the basis of the family pension received by the claimant-appellants inasmuch as the deceased was getting a pension of ₹8,134 per month. Hence, the income of the deceased ought to have been taken as ₹8,134 per month. It is further the contention that the deduction of 1/3rd has wrongly been applied by the Tribunal whereas it ought to have been 1/4th as there were (four) dependents upon the deceased. Learned counsel would further contend that no addition has been made towards future prospects which ought to have been 10%. In support of his contentions the learned counsel for the claimant-appellants has relied upon the judgment of the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**.

5. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that the amounts awarded under the head funeral expenses, loss of consortium and loss of love and affection are on the higher side. In support of his contentions the learned counsel for respondent

No.3-Insurance Company 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]**.

6. Heard.

7. In the present case the Tribunal has erred in assessing the income of the deceased as ₹5,675 and that too after taking into consideration and deducting the amount of pension received by the family of the deceased after his death. Admittedly the deceased in the present case was getting a pension of ₹8,134 per month. The Hon'ble Supreme Court in the case of **Sebastiani Lakra & Ors. V/s National Insurance Company Ltd. & Anr. [2018 (4) RCR (Civil) 837]** has held as under :

> *'12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are*

> *entitled to 'just compensation' under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his life time cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death'*

Keeping in view the law laid down by the Hon'ble Supreme Court in **Sebastiani Lakra**'s case (supra), the income of the deceased is assessed as ₹8,134 per month.

8. The Tribunal has made a deduction of 1/3rd which ought to have been 1/4th keeping in view the fact that there were 4 (four) people dependent upon the deceased. 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), 10% addition is made towards future prospects. Further, the amount awarded under the conventional heads and under the head '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). 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. The claimant-appellants, being widow and

children of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium. Since there is no challenge to the multiplier of '9' as applied by the Tribunal, the same is maintained.

9. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹8,134
2.	Annual income	[₹8,134 x 12] = ₹97,608
3.	Deduction $1/4^{th}$	[₹97,608 - ₹24,402] = ₹73,206
4.	Future prospects @ 10%	[₹73,206 + ₹7,321] = ₹80,527
5.	Multiplier '9'	[₹80,527 x 9] = ₹7,24,743
6.	Loss of estate	₹18,000
7.	Funeral expenses	₹18,000
8.	Loss of Consortium :	₹1,92,000
	Total Compensation	₹9,52,743

10. 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.

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.

20.01.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No