



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

274

FAO-364-2018 (O&M)

Date of Decision : 05.03.2025

SMT. FAIMAN & ORS.

.... Appellants

VERSUS

ISMAIL AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shivam Sharma, Advocate for
Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Nigam K. Bhardwaj, Advocate and
Ms. Tanu, Advocate
for respondent No.3.

Service of respondents No.1, 2, 4 and 5 dispensed with
vide order dated 20.01.2020.

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, Mewat (hereinafter referred to as 'the Tribunal') vide award dated 02.03.2017.

2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to 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	₹7,400
2.	Deduction 1/3 rd	[₹7,400 - ₹2,466] = ₹4,934
3.	Annual income	[₹4,934 x 12] = ₹59,208
4.	Multiplier of ‘18’	[₹59,208 x 18] = ₹10,65,744
5.	Loss of consortium and loss of estate	₹1,00,000
6.	Loss of love and affection	₹1,00,000
7	Transportation and funeral expenses	₹25,000
	Total Compensation	₹12,90,744
	Interest	@9% per annum

4. Learned counsel for the claimant-appellants would contend that deduction of 1/3rd has wrongly been applied by the Tribunal whereas it ought to have been 1/4th as there were six (06) dependents. It is further the contention that no addition has been made towards future prospects and that the amounts awarded under the head ‘loss of consortium’ and under the conventional heads are on the lower side. 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]** and **N. Jayasree & Ors. Vs. Chola mandalam 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. Heard.

7. In the present case no amount has been awarded towards future prospects and hence as per the law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition is made towards future prospects. Further, the deduction of 1/3rd has wrongly been applied which ought to have been 1/4th keeping in view the fact that there were six (06) dependents. The amount 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). 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 mother, siblings, widow and son 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 income of the deceased being ₹7,400 per month and the multiplier of ‘18’ as applied by the Tribunal, the same are maintained.

8. Accordingly, the reworked compensation case is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹7,400
2.	Deduction ¼ th	[₹7,400 - ₹1,850] = ₹5,550
3.	Annual income	[₹5,550 x 12] = ₹66,600
4.	Future prospects @ 40%	[₹66,600 + ₹26,640] = ₹93,240
5.	Multiplier of ‘18’	[₹93,240 x 18] = ₹16,78,320
6.	Loss of estate	₹18,000
7.	Funeral Expenses	₹18,000
8.	Loss of Consortium : (i) Parental (ii) Filial (iii) Spousal	₹48,000 ₹1,92,000 [₹48,000 x 4] ₹48,000 Total = ₹2,88,000
	Total Compensation	₹20,02,320

9. 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 between the claimant-appellants as directed by the Tribunal.

10. 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.

05.03.2025
Aman Jain

(ALKA SARIN)
JUDGE

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