

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****273****FAO-5109-2018 (O&M)****Date of Decision : 15.01.2025**

Lakhveer Kaur and Another

....Appellants

VERSUS

Mohan Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. N.K. Vadhera, Advocate for the appellants.

Mr. Harsh Aggarwal, 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, Gurdaspur (hereinafter referred to as the 'Tribunal') vide award dated 27.11.2017 on account of death of Jorawar Singh (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	Notional annual income	Rs.30,000/-
2	Compensation after applying the multiplier of 18	[Rs.30,000 x 18] = Rs.5,40,000/-

3	Loss of Estate	Rs.15,000/-
4	Funeral expenses	Rs.15,000/-
	Total Compensation	Rs.5,70,000/-
	Interest	9% per annum

4. Learned counsel for the claimant-appellants would contend that the deceased in the present case was a young boy of 18 years who had completed his 10+2 and had a very bright future ahead. However, the Tribunal has erred in assessing his notional income only as Rs.30,000/- per annum. Learned counsel for the claimant-appellants has relied upon a judgment of the Hon’ble Supreme Court in the case of **Bishnupriya Panda V/s Basanti Manjari Mohanty and Anr. [2023 (4) TAC 44]** to contend that the deceased in that case was a 4th year student of MBBS and Hon’ble Supreme Court had assessed his notional income as Rs.50,000/- per month for an accident that took place on 27.07.2013. Further, reliance has been placed upon the judgment passed by the Hon’ble Supreme Court in the case of **Arjun Kumar Aggarwal V/s The New India Assurance Co. Ltd. And Ors. [2023(3) TAC 23]** wherein the notional income of the deceased was taken as Rs.29,166/- on the basis of an appointment letter. Further reliance has been placed on the case of an engineering student in the case of **Kandasami & Ors. vs. Lindabriyal & Anr. [2023 ACJ 1653]** where the accident took place on 28.09.2008 and the notional income was assessed as Rs.25,000/- per month.

5. Learned counsel for the claimant-appellants would further contend that the Tribunal has not made any addition towards loss of future prospects. It is further the contention that the Tribunal has not awarded any

amount under the head 'loss of consortium and that the amount awarded under the conventional heads i.e. loss of estate and funeral expenses is also not in accordance with the law laid down by the Hon'ble Supreme Court. In support of his contentions, he 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]**.

6. *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.

7. Heard.

8. In the present case the deceased had completed 10+2 at the time of the accident. Hon'ble Supreme Court in the case of **Bishnupriya Panda** (supra) had taken the notional income of the deceased as Rs.50,000/- per month for the accident which took place in the year 2013. In a similar case of **Arjun Kumar Aggarwal** (supra) the notional income of the deceased was taken as Rs.29,166/- per month and in the case of **Kandasami** (supra) notional income as Rs.25,000/- per month was taken for an accident which took place in the year 2008. Thus, taking a conservative estimate, as the date of the accident in the present case was 19.05.2017, the notional income of the deceased is assessed as Rs.15,000/- per month. Further, the Tribunal has

erred in not making any addition towards loss of future prospects which ought to have been 40% in view of the law laid down by Hon’ble Supreme Court in case of **Pranay Sethi** (supra). Further, since the deceased was a bachelor, 50% deduction would be applicable as held by the Hon’ble Supreme Court in the cases of **Bishnupriya Panda** (supra) and **Kandasami** (supra). Further, the amount awarded under the conventional heads is also not in accordance with the law laid down by the Hon’ble Supreme Court and no amount has been awarded under the head ‘loss of consortium’ and hence 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), 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.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Notional income	Rs.15,000/-
2.	Annual income	[Rs.15,000/- x 12] = Rs.1,80,000/-
3.	Deduction 50%	[Rs.1,80,000 – 90000] = Rs.90,000/-
4.	Future prospects @ 40%	[Rs.90,000+ Rs.36,000/-] = Rs.1,26,000/-
5.	Multiplier 18	[Rs.1,26,000 x 18] = Rs.22,68,000/-
6.	Loss of estate	Rs.18,000/-
7.	Funeral expenses	Rs.18,000/-
8.	Loss of Consortium : (i) Filial	[Rs.48000 x 2] = Rs.96,000/-
	Total Compensation	Rs.24,00,000/-

9. The interest component would also have to be awarded from the date of filing of the claim petition till its realization. In view thereof, the amount awarded by the Tribunal as well as the enhanced amount shall carry an interest component @ 7.5% per annum from the date of filing of the claim petition till its realization. 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.

15.01.2025
jk

**(ALKA SARIN)
JUDGE**

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