



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

227

FAO-7745-2016 (O&M)

Date of Decision : 17.01.2025

INDERJIT KAUR AND OTHERS

.... Appellants

VERSUS

GURMEET SINGH AND ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

None for respondent No.1 despite service.

Mr. Ram Avtar, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

CM-25970-CII-2016

1. This is an application for condonation of delay of 44 days in filing the main appeal.

2. For the reasons stated in the application, the same is allowed and the delay of 44 days in filing the main appeal is condoned.

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3. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 03.05.2016.

4. Since the factum of the accident is not in dispute, the facts are not being adverted to herein for the sake of brevity.

5. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Amount of compensation with 12 months income and 09 as multiplier (₹2,24,238 x 9)	₹21,98,142
2.	Compensation to the family members (children and family members other than wife) for loss of love and affection, deprivation of protection, social security etc.	₹1,00,000
3.	Compensation to the wife for loss of love and affection, deprivation of protection, social security etc.	₹50,000
4.	Cost incurred on account of funeral and ritual expenses	₹10,000
	Total Compensation	₹23,58,142
	Interest	@9% p.a.

6. Though the Tribunal had initially awarded an amount of ₹23,58,142 as compensation, however, since there were some inadvertent calculation mistakes, the same was rectified and the compensation was re-assessed as ₹21,84,442 vide order dated 18.05.2016 passed by the Tribunal.

7. Learned counsel for the claimant-appellants would contend that the income of the deceased has wrongly been assessed as ₹2,99,918 as per the Income Tax Return (Ex.A-8) which was for the Assessment Year 2014-15. It is further the contention that as per the Income Tax Return (Ex.A-5) the income of the deceased was ₹3,30,059 which was for the Assessment Year 2013-14. It is further the contention that no amount had been awarded under the head future prospects and keeping in view the age of the deceased, 10% ought to have been added towards future prospects. It is further the

contention that the amounts awarded under the conventional heads and under the head loss of consortium are not in consonance with 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].

8. *Per contra*, learned counsel for respondent No.2 would contend that the Income Tax Return (Ex.A-8) has rightly been relied upon by the Tribunal inasmuch as the same pertains to the year ended 31.03.2014 i.e. prior to the date of the accident which took place on 28.06.2014. It is further the contention that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

9. Heard.

10. In the present case the Tribunal has rightly relied upon the Income Tax Return (Ex.A-8). The argument of the learned counsel for the claimant-appellants that Ex.A-5 ought to have been relied upon, which is the Income Tax Return for the Assessment Year 2013-14, deserves to be rejected. Income Tax Return for the Assessment Year 2014-15 (Ex.A-8) is for the year ended 31.03.2014 i.e. when Surinder Singh (since deceased) was still alive. No doubt that the Income Tax Returns have been filed by the legal representatives after the death of Surinder Singh (since deceased), however, the return Ex.A-8 is for the period when Surinder Singh was alive.

Therefore, the reliance has correctly been placed on the said return. Hence, the income of the deceased is assessed as ₹2,99,918. The argument of the learned counsel for the claimant-appellants that no amount had been awarded towards future prospects deserves to be accepted. Accordingly, 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.

11. 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). 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 deduction of 1/4th and multiplier of '9', the same are maintained.

12. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Annual income	₹2,99,918
2.	Deduction 1/4 th	[₹2,99,918 - ₹74,980] = ₹2,24,938
3.	Future prospects @ 10%	[₹2,24,938 + ₹22,494] = ₹2,47,432
4.	Multiplier '9'	[₹2,47,432 x 9] = ₹22,26,888
5.	Loss of estate	₹18,000
6.	Funeral expenses	₹18,000
7.	Loss of Consortium :	₹48,000 x 4 [Total ₹1,92,000]
	Total Compensation	₹24,54,888

13. 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. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the appeal. The amount shall be apportioned between the claimant-appellants as directed by the Tribunal.

14. 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.

17.01.2025

Aman Jain

(ALKA SARIN)

JUDGE

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