



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

267

FAO-1311-2016 (O&M)

Date of Decision : 20.01.2025

Lalita and Others

....Appellants

VERSUS

Mukesh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Kumar Yadav, Advocate for the appellants.

Ms. Manvi Verma, Advocate for

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal') vide award dated 31.08.2015 on account of death of Hari Ram (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	Monthly income	Rs.8,000/-
2	Deduction 1/4 th	[Rs.8,000 – 2,000] = Rs.6,000/-
3	Annual income	[Rs.6,000 x 12] = Rs.72,000/-

4	Multiplier of 17	[Rs.72,000 x 17] = Rs.12,24,000/-
5	Funeral expenses	Rs.25,000/-
6	Loss of consortium to appellant No.1	Rs.1,00,000/-
7	Loss of love and affection to appellant Nos.2 to 4	Rs.3,00,000/-
	Total Compensation	Rs.16,49,000/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellants would contend that the income tax returns (Ex.PW9/A and Ex.PW9/B) have been totally ignored by the Tribunal and the income of the deceased has wrongly been assessed as Rs.8,000/- per month. It is further the contention that even as per the income tax return (Ex.PW9/A) filed for the assessment year 2012-13, the income of the deceased from his business was Rs.11,600/- per month and that it has come on the record that after the death of the deceased the said business was shut-down. Learned counsel for the claimant-appellants would further contend that the Tribunal has not made any addition towards loss of future prospects and also no amount has been awarded towards loss of estate. However, learned counsel for the claimant-appellants has fairly conceded that the amount awarded towards funeral expenses and loss of consortium would also need to be re-worked out. In support of his contentions, he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, **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].

5. *Per contra* learned counsel for respondent No.3-Insurance Company would contend that the income of the deceased has rightly been assessed as Rs.8,000/- per month and that there is no scope of any further enhancement.

6. Heard.

7. In the present case, as per the income tax return filed for the assessment year 2012-13, the income of the deceased from his business was shown to be Rs.11,600/- per month. It has come on the record that after the death of the deceased the said business had shut-down and hence this Court deems it appropriate to assess the income of the deceased as Rs.11,600/- per month as per the income tax return for the assessment year 2012-13. There is no challenge to the deduction of 1/4th applied by the Tribunal towards personal expenses of the deceased, however, no addition has been made towards loss of future prospects. The deceased in the present case was 28 years of age and hence, as per the law laid down by Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition ought to have been made towards loss of future prospects. The Tribunal has correctly applied a multiplier of '17', however, the amounts awarded under the conventional heads as well as under the head 'loss of consortium' are not in accordance with the law laid down by the Hon'ble Supreme Court and the same are required to be re-worked as fairly conceded by learned counsel for the claimant-appellants. 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. 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	Monthly income	Rs.11,600/-
2	Annual income	[Rs.11,600 x 12] Rs.1,39,200/-
3	Deduction 1/4 th	[Rs.1,39,200 – 34,800] = Rs.1,04,400/-
4	Future prospects @ 40%	[Rs.1,04,400 + 41,760] = Rs.1,46,160/-
5	Multiplier of 17	[Rs.1,46,160 x 17] = Rs.24,84,720/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium (i) Spousal (ii) Parental (iii) Filial	Rs.48,000/- [Rs.48,000 x 3] = Rs.1,44,000/- [Rs.48,000 x 2] = Rs.96,000/- Rs.2,88,000/-
	Total	Rs.28,08,720/-

9. 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 claimants i.e. appellants and respondent Nos.4 and 5 (parents of the deceased), 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.

20.01.2025

jk

**(ALKA SARIN)
JUDGE**

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