

HIGH COURT OF PUNJAB AND HARYANA**Bench: Mrs. Justice Alka Sarin****Date of Decision: 12.01.2024**

FAO No.2439 of 2008

Ramphal and Another**....Appellants****VERSUS****Krishan Kumar and Others****....Respondents**

Legislation: None.

Subject:

Motor Accident Claims - Compensation for the death of the claimants' brother.

Headnotes:

Motor Accident Claims - Compensation - Real brothers of the deceased claim compensation - Dependency not established - Entitled to compensation under conventional heads and loss of filial consortium - Appeal allowed. [Para 6-7]

Interest - Compensation to attract interest at 7.5% per annum from the date of filing of the claim petition till realization of the entire amount. [Para 8]

Modification of Tribunal's award - Present appeal allowed, and the award passed by the Tribunal is modified accordingly. [Para 9]

Referred Cases:

National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]

Representing Advocates:

Mr. Jagdeep S. Virk, Advocate for the appellants.

Mr. Vipul Sharma, Advocate for respondent No.3.

Mr. Ravinder Arora, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been filed by the claimant-appellants challenging the award dated 24.03.2008 passed by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as the 'Tribunal') whereby the claim petition filed by

the claimant-appellants on account of death of their brother, namely, Subhash @ Tasa (hereinafter referred to as the 'deceased'), was dismissed.

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. Learned counsel for the claimant-appellants would contend that the claim petition was dismissed by the Tribunal only on the ground that the claimant-appellants are the real brothers of the deceased, who was unmarried and 35 years of age. It has been held by the Tribunal that the claimant appellants are both married and have their own children and hence, they could not be held to be dependent on the deceased and, as such, they are not entitled to claim any compensation. Learned counsel for the claimant appellants would further contend that even if the brothers were not entitled to compensation on account of death of the deceased, as no dependency could be proved, however, they would be entitled to compensation under the conventional heads as well as under the head of loss of consortium in view of the law laid down by the Hon'ble Supreme Court in the case of National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680].
4. Per contra learned counsel for respondent No.3-Insurance Company has contended that since the claimant-appellants were not dependent upon the deceased hence no amount of compensation is payable to them.
5. I have heard learned counsel for the parties.
6. In the present case the claimant-appellants are the real brothers of the deceased. Though they cannot be held to be dependent on the deceased as it has come in evidence that they are both earning, however, they would be entitled to compensation under the conventional heads i.e. loss of estate [Rs.18,000/- (Rs.15000+20%)] and funeral expenses

[Rs.18,000/- (Rs.15000+20%)] and under the head loss of filial consortium [Rs.48,000/- each (Rs.40,000+20%)] keeping in view the law laid down in the case of Pranay Sethi (supra).

7. Accordingly, the claimant-appellants are granted the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Loss of estate	Rs.18,000/- (Rs.15000+20%)
2	Funeral expenses	Rs.18,000/- (Rs.15000+20%)
3	Loss of Filial Consortium	Rs.96,000/- (48,000 x 2)
	Total Compensation	Rs.1,32,000/-

8. The amount of compensation shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.
9. 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.

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