

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

FAO-4470-2003 (O&M)

Date of Decision: December 07, 2022

Varinder Pal Singh through his LRs

....Appellant

Versus

Jaswinder Singh and others

.....Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr.Ashok Kumar Sharma, Advocate
for the appellant.

Mr.Amit Kundra, Advocate
for respondent No.3-Insurance Company.

ARCHANA PURI, J

Challenge in the present appeal is to the Award dated 04.06.2003 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted to the appellant-claimant, on account of death of his wife, in a motor vehicular accident.

On appraisal of the evidence adduced, learned Motor Accidents Claims Tribunal had awarded compensation to the extent of Rs.50,000/-, on account of 'no fault liability' qua death of Daljit Kaur.

Being dissatisfied with the extent of compensation, the appellant-claimant has filed the present appeal for seeking enhancement of the compensation.

So far as the fact of accident and manner of its taking place as

well as liability of the driver, owner and insurer of the offending vehicle to be joint and several are concerned, it is pertinent to mention that no appeal has been filed by the persons, so made liable to challenge the Award and thus, findings so arrived, have attained finality.

As per the version, put forth by the appellant-claimant, during the intervening night of 19-20.04.2001, at about 1 a.m., while Daljit Kaur (deceased) along with her brother-in-law and other persons, was going from Patiala to Delhi, in a car bearing registration No.DDU-7469. A truck bearing registration No.HP-12-9832, being driven by respondent No.1- Jaswinder Singh, in rash and negligent manner, had come from behind and hit the car, as a result whereof, the car caught fire and Daljit Kaur had sustained burn injuries and had died, at the spot.

Respondents No.1 and 2 (driver and owner), in the reply, had denied about the accident. Even, the insurance company, in its reply, had alleged about the accident to have taken place, due to rash and negligent driving of the car by its driver.

Suffice to consider the testimony of PW-4 Vinderjit Kaur, who was also occupant of the ill-fated car. She has given a vivid description of the manner of accident. She has imputed rashness and negligence, on the part of the driver of the truck.

RW-1 Jaswinder Singh, who is driver of the truck (offending vehicle) in question, while in the witness box, had stated about the car to have come on the wrong side, as a result whereof, his vehicle hit the car, which caught the fire. However, it is pertinent to mention that copy of FIR No.61 of 20.04.2001 under Sections 279, 337 and 304-A IPC, Police Station

Madhuban, was got lodged and it substantiates the version, as put forth by the appellant-claimant. RW-1 Jaswinder Singh, while facing cross-examination had also admitted about criminal case pending against him, qua the alleged accident. He also admitted about one women to have died at the spot, due to the burn injuries, whereas, other woman, received burn injuries on her arms and legs.

Considering the aforesaid evidence, the fact of accident, as such, as observed by learned Tribunal, stands amply established and these findings have not been challenged by way of appeal/cross objections, at the instance of the driver, owner and insurance company.

Even though, learned Tribunal had granted compensation to the extent of Rs.50,000/-, on account of 'no fault liability', but however, as observed above, rashness and negligence, on the part of respondent No.1- Jaswinder Singh, stands amply established, which has not been further challenged. Therefore, the compensation could not be worked upon, only on account of 'no fault liability'.

In this backdrop, now let us work upon the entitlement of the appellant to the compensation. It is asserted by the appellant-claimant that deceased Daljit Kaur was working as Nurse in a hospital at Beas and was earning Rs.5000/- per month. To so substantiate this assertion, certificate Ex.P5 dated 15.07.1999, issued by Director, Maharaj Sawan Singh Charitable Hospital, Beas, has come on record. However, it states about the deceased Daljit Kaur, to be working as Staff Nurse in that hospital, since 18.05.1998. However, occurrence took place on the intervening night of 19-20.04.2001. Thus, this certificate had been issued, much prior to the

accident in question. Apart from this certificate, there is nothing, as such, coming on record, about the deceased to be working as Nurse in the said Hospital, at the relevant time. In the given circumstances, for all intents and purposes, the deceased, as such, has to be taken as homemaker. The finding, so recorded by learned Tribunal, about the appellant-claimant, to be not dependent upon the deceased, is palpably wrong. No doubt, as observed by learned Tribunal that there was no issue born to the deceased from the loins of the appellant-claimant, but in this situation, as observed, it cannot be held that appellant-claimant was not dependent upon the deceased.

It is further pertinent to mention here that the service of mother/wife is available 24 hours and her duties are never fixed. Courts have recognized the contribution made by the wife/mother to the house is invaluable and that it cannot be computed in terms of money. A housewife/homemaker does not only work by the clock and she is in constant attendance of the family throughout and such services rendered by the homemaker, has to be necessarily kept in view, while calculating the loss, in the eventuality of death or injuries sustained in the accident. In the case in hand, deceased Daljit Kaur, who was 24 years, had died, on account of fatal injuries, sustained in the accident.

Considering the aforesaid discussion, the compensation granted by learned Tribunal, requires re-appraisal.

Considering the inflation induced increase in the wages, even that of the labourer, the notional income/value of the services, can conveniently be taken to be Rs.2,000/- per month. The grant of future prospects, on the notional income, calculated in case the victim is a

housewife, is also necessary component of '**just compensation**' as held by three Judge Bench of the Hon'ble Supreme Court in the decision rendered in '**Kirti and another v/s Oriental Insurance Company Ltd., 2021(2) SCC 166**'.

Keeping in view the age of the deceased, as per **National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**, an addition of 40% is to be made, on account of future prospects, which comes to be Rs.800 and thus, total whereof is worked upon as $\text{Rs.}2000+800=\text{Rs.}2,800/-$ and annual income comes to be $\text{Rs.}2800 \times 12 = \text{Rs.}33,600/-$. By application of appropriate multiplier, which is '18' as held in **Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77**, the loss of dependency is assessed as $\text{Rs.}33,600 \times 18 = \text{Rs.}6,04,800/-$.

Further, as per **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018(18) SCC 130**, the appellant-claimant is entitled to compensation under the head of '**loss of consortium**'. As per **Pranay Sethi's case (supra)**, the extent of consortium payable, is stated to be Rs.40,000/- and it was further held that the aforesaid amount should be enhanced by 10% after every three years. As the said judgment is dated 31.10.2017, so there has to be enhancement of 10%, which comes to be Rs.44,000/-. In the light of the same, appellant-claimant is entitled to compensation, on the count of '**loss of consortium**' to the extent of Rs.44,000/-.

Furthermore, as per **Pranay Sethi's case (supra)**, a sum of Rs.15,000/- is to be paid as 'funeral expenses' and 'loss of estate' each,

which requires enhancement to the extent of 10% after every three years, which comes to be Rs.16,500/- under each head.

Thus, in the light of the aforesaid discussion, the appellant-claimant, is now held entitled for compensation as under:

Loss of dependency	:	Rs.6,04,800/-
Loss of consortium	:	Rs.44,000/-
Funeral expenses	:	Rs.16,500/-
Loss of Estate	:	Rs.16,500/-
Total	:	Rs.6,81,800/-

As such, the enhanced compensation, after the compensation awarded by the Tribunal comes to **Rs.6,81,800-50,000= Rs.6,31,800/-**.

Appellant Varinder Pal Singh, who had re-married, has since died and the present appeal, is now being pursued by his LRs namely, Tajinder Kaur (widow), Harneet Kaur (minor daughter) and Manvinder Pal Singh (minor son), therefore, the apportionment and disbursement of the enhanced amount of compensation, shall be made amongst them, in equal shares. Further, they shall be entitled to interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The impugned Award dated 04.06.2003 stands modified, to the extent, as indicated aforesaid. The remaining terms of the impugned Award, shall remain same.

With the above observations, the present appeal stands allowed.

December 07, 2022
Vgulati

Whether speaking/reasoned
Whether reportable

(ARCHANA PURI)
JUDGE
Yes
Yes/No