IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3104-2011 (O&M)
Date of Decision: December 07, 2022

Kashmir Kaur and others

....Appellants

Versus

Gurmeet Singh and others

.....Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr.Ashwani Arora, Advocate
for the appellants.

Mr.Tajender Joshi, Advocate
for respondent No.3-Insurance Company.

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ARCHANA PURI, J

Challenge in the present appeal is to the Award dated 18.10.2010 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted, on account of death of Balbir Singh, in a motor vehicular accident, which took place on 25.02.2008.

On appraisal of the evidence adduced, learned Motor Accident Claims Tribunal had awarded compensation to the extent of Rs.5,29,000/-.

Being dissatisfied with the extent of compensation, the appellants-claimants have 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.

In this backdrop, learned counsel for the appellants-claimants has submitted that learned Tribunal has erroneously worked upon the compensation, so granted, while considering various aspects. It is further submitted that taking into consideration the settled law, the compensation so granted by learned Tribunal, requires extensive enhancement.

On the contrary, learned counsel for the insurance company has refuted the claim of the appellants-claimants, while asserting that no satisfactory evidence has been led to seek compensation, as now impressed upon. Thus, he submits that the appeal sans merit and deserves to be dismissed.

As per version of the appellants-claimants, on 25.02.2008, while Balbir Singh was standing on left hand side, *katcha* portion of G.T. Road, then a Tavera car bearing registration No.PB-10BM-9323, being driven by respondent No.1-Gurmeet Singh, in rash and negligent manner, came from Rajpura side and struck against Balbir Singh. As a result of the said accident, Balbir Singh had received serious injuries and was removed to Civil Hospital, Ambala. He was referred to PGI, Chandigarh, where he died on 01.03.2008, due to the fatal injuries, received in the accident.

To so substantiate this version, PW-2 Sushil Kumar, an eye witness to the accident, has given a vivid description of manner of the accident, so caused by rash and negligent driving of Tavera car bearing registration No.PB-10BM-9323 by respondent No.1-Gurmeet Singh. He also deposed about registration of the FIR dated 01.03.2008, under Sections 279 and 304-A IPC, Police Station Baldev Nagar, Ambala, Ex.P7, against Gurmeet Singh. The post-mortem report has also been proved as Ex.P1.

However, it is pertinent to mention that respondent No.1-Gurmeet Singh, who was best person to deny about the said version, has not come forward to contest the case and rebut the evidence, led by the appellants-claimants. As such, rashness and negligence, imputed upon Gurmeet Singh, driver, while driving Tavera car bearing registration No.PB-10BM-9323, which resulted into causing of fatal injuries to Balbir Singh, stands amply established.

In this backdrop, now the compensation has to be re-appraised.

From the evidence adduced, it stands established that the deceased was 45 years old, at the time of accident. Even though, it is the claim of the appellants-claimants that deceased Balbir Singh was working as driver with Mehar Singh and was earning Rs.6,000/- per month, but however, no satisfactory evidence, in this regard, has been brought on record. Considering the same, his earnings have been appropriately taken to be Rs.4,000/- per month and annual earnings, thus worked upon as Rs.48,000/-.

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 25% has to be made as future prospects and thus, the income comes to be Rs.60,000/- (Rs.45,000+40%) per annum. The appellants-claimants are widow, daughter, sons and mother of the deceased, who were dependent upon the deceased and they are five in number.

Considering the same, as per guidelines laid down in ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the deduction has to be to the extent of $1/4^{th}$. Thus, the loss of dependency is worked upon as Rs.60,000-$1/4^{th}$=Rs.45,000/- per annum. Considering the age of deceased Balbir Singh, appropriate multiplier to be applied in the case in hand is '14'. By applying this multiplier, the compensation, on the count of loss of dependency, comes to Rs.45,000x14=Rs.6,30,200/-.

Besides the aforesaid, it is pertinent to mention that in ***Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018(18) SCC 130*** and ***United India Insurance Company Ltd. vs. Satinder Kaur alias Satvinder Kaur and others, 2020 SCC Online 410***, it has been laid down by the Hon'ble Supreme Court that consortium is not limited to '**spousal consortium**' and it also includes '**parental consortium**' and '**filial consortium**'. It was held that apart from spousal consortium, parental and filial consortium is also payable. Endorsing this view, in ***The New Assurance Company Limited vs. Smt.Somwati and others, Civil Appeal No.3093 of 2020, decided on 07.09.2020***, the conclusion given in the impugned judgments of the High Court, awarding consortium to each of the claimants, was held to be in accordance with law, which does not warrant any interference in the case under consideration.

In ***Pranay Sethi's case (supra)***, the extent of consortium, which should be paid, is stated to be Rs.40,000/-, for the loss of estate, it is Rs.15,000/- as well as for the funeral expenses, it is Rs.15,000/-. It was further held in ***Pranay Sethi's case (supra)*** 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% in each of these conventional heads, which comes to be Rs.44,000/- as loss of consortium, which is to be paid to each of the appellants-claimants, Rs.16,500/- as loss of estate and Rs.16,500/- as funeral expenses.

Considering the same, now the compensation payable to the claimants is re-appraised as following:-

Loss of dependency	**:**	**Rs.6,30,000/-**
Loss of consortium (Rs.44,000x5)	**:**	**Rs.2,20,000/-**
Funeral expenses	**:**	**Rs.16,500/-**
Loss of Estate	**:**	**Rs.16,500/-**
Total	**:**	**Rs.8,83,000/-**

As such, the enhanced compensation, after the compensation awarded by the Tribunal comes to **Rs.8,83,000-5,29,000=Rs.3,54,000/-**. Out of the enhanced compensation, Rs.50,000/- each be disbursed to appellants No.2 to 5 (children and mother of deceased) and Rs.1,54,000/- to appellant-claimant No.1 (wife of the deceased). Learned Tribunal had granted the interest at the rate of 7.5% per annum from the date of presentation of the petition, till payment of the amount. However, the interest rate has reduced, hence thereafter. Keeping in view the same, for the enhanced amount of the compensation, the appellants-claimants shall be entitled to the 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.

With the above observations, the present appeal stands allowed.

The impugned Award dated 18.10.2010 stands modified, to the extent, as indicated aforesaid. The remaining terms of the impugned Award, shall remain same.

December 07, 2022 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes/No**
Whether reportable **Yes/No**