**2023:PHHC:069968**

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

**FAO-1576-1995 (O&M)**
**Date of Decision: May 12, 2023**

Mann Kaur and another
...Appellants

VERSUS

Surinder Kumar and others
...Respondents

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Sagar Aggarwal, Advocate
for the appellants.

Respondent No.1-given up.

Ms.Aashima Narula, Advocate
for respondent No.2.

Mr.Rishabh Jain, Advocate for
Mr.Suman Jain, Advocate
for respondent No.3-Insurance Company.

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**<u>ARCHANA PURI, J.</u>**

Challenge in the present appeal is to the Award dated 02.02.1995 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted to the appellants-claimants, on account of death of their daughter Gurnam Kaur, in a motor vehicular accident.

Claim petition No.239 of 19992 was filed by appellants-claimants Mann Kaur and Veer Singh, thereby, seeking compensation, on account of death of their daughter Gurnam Kaur, in the accident, which took place on 25.05.1992.

Besides the aforesaid claim petition, various other claim petitions were also filed, on account of injuries sustained by various other persons, in the same accident and all the claim petitions were decided vide Award dated 02.02.1995.

On appraisal of the evidence adduced, learned Tribunal vide impugned Award, had granted a lumpsum amount of Rs.50,000/- to the appellants-claimants, on account of death of Gurnam Kaur, in a motor vehicular accident.

Being dissatisfied with the extent of compensation, so granted, appellants-claimants have filed the present appeal, thereby, seeking extensive enhancement of the compensation.

The fact of accident and manner of its taking place as well as the liability fastened upon the respondents, as such, is not disputed, as none of the respondents, so made liable, have challenged the Award.

In the claim petition, it is specific claim of the appellants that Gurnam Kaur was working as Government Teacher and was teaching in Government School, Assandh and was getting salary of Rs.2,950/- per month. To so substantiate the avocation, so followed by deceased Gurnam Kaur, the mother of the deceased had stepped into witness box and proved on record matriculation certificate of Gurnam Kaur as Ex.P30 and certificate issued by Haryana Education Department to Gurnam Kaur, relating to passing of Language Teachers' course examination as Ex.P31. However, apart from the aforesaid documents, there is no other document to establish about the avocation, so followed by deceased Gurnam Kaur. No school record, as such, where she was teaching, has come on record. In the light of the same, it has been rightly concluded by learned Tribunal about Gurnam Kaur to be not employed in Government of Haryana as Teacher. But however, the fact remains that she has passed Language Teachers' Course examination in the year 1984 and therefore, learned Tribunal had considered her to be in better place than household lady.

Considering the same and also considering the date of birth of the deceased as 15.01.1959, as depicted in her matriculation certificate Ex.P30, the age of the deceased, at the relevant time of accident, has been correctly taken to be 33 years. However, in the light of the aforesaid conclusions, learned Tribunal had considered the age of the parents of the deceased, while granting the compensation. A lumpsum amount of Rs.50,000/- has been granted, while considering the age of the parents of the deceased. However, learned Tribunal fell in error, while considering the age of the parents for grant of compensation to them.

As per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, the Constitutional Bench of the Hon'ble Supreme Court has held that while working upon the compensation, the age of the deceased should be the basis for applying the multiplier.

Considering the age of the deceased, the amount of Rs.50,000/- in lumpsum, granted by learned Tribunal, is patently erroneous. In these circumstances, the computation of the compensation, ought to be worked, while making the assessment of the earnings and by application for appropriate multiplier as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil)*** *77*.

Considering the deceased Gurnam Kaur to be an educated person and also considering her to have passed Language Teachers' Course examination, even though, she is not established to be a Government Teacher, in modest estimate and considering her qualification, her earnings are taken as **Rs.1,400/-** per month. To the said amount, in view of the age of deceased Gurnam Kaur, further addition of 40% is to be made, on the count of '**future prospects**', which comes to be **Rs.1400+560(40%)=Rs.1960/-**.

Considering the daughter of appellants-claimants to be unmarried child, the deduction to the extent of 50% has to be made, on the count of '**personal expenses**'. Considering it to be so, the loss of dependency is worked upon as Rs.980/- per month and annual comes to be **Rs.11760/-**. Thus, after applying the multiplier of '**16**', the loss of dependency comes to be **Rs.11,760x16= Rs.1,88,160/-**.

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.

As per the guidelines laid down in ***Pranay Sethi's case (supra)***, the appellants-claimants, are entitled to compensation for '**loss of consortium**', to the extent of **Rs.44,000/-** each. Besides the same, they are also entitled to **Rs.16,500/-** as '**loss of estate**' and **Rs.16,500/-** as '**funeral expenses**'.

Thus, loss of dependency comes to be **Rs.1,88,160/-**, '**loss of consortium**' comes to be **Rs.88,000/-**, **Rs.16,500/-** as '**loss of estate**' and **Rs.16,500/-**, as '**funeral expenses**'. Therefore, the total comes to be **Rs.3,09,160**/-.

As such, the enhanced compensation, after the compensation awarded by the Tribunal comes to be **Rs.3,09,160-50,000 =Rs.2,59,160/-**.

The enhanced compensation, so now awarded, be also apportioned in equal shares amongst the appellants-claimants, as ordered by learned Tribunal. However, keeping in view the interest rates, having been reduced drastically, on the enhanced amount of the compensation i.e. **Rs.2,59,160/-**, 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.

Accordingly, the impugned Award dated 02.02.1995 stands modified, to the extent, as indicated aforesaid. The remaining terms of the impugned Award shall remain the same.

With the above observations, the present appeal stands allowed.

**May 12, 2023** **(ARCHANA PURI)**
Vgulati **JUDGE**

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