IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4059-2006 (O&M)
Date of Decision: February 17, 2023

Paramjit Kaur and others

...Appellants

VERSUS

Sukhwinder Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Tribhawan Singla, Advocate
for the appellants.

Mr.Lalit Garg, Advocate
for respondent No.6-Insurance Company.

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ARCHANA PURI, J.

Challenge in the present appeal is to the Award dated 12.04.2006 passed by learned Motor Accident Claims Tribunal, thereby, granting compensation, on account of death of Balwant Singh, in a motor vehicular accident.

On appraisal of the evidence adduced, learned Tribunal vide impugned Award, had granted compensation to the extent of Rs.4,88,000/- to be equally shared by the widow and minor children of the deceased.

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

So far as, the fact of accident and manner of its taking place as well as the 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. Even, at present, it is not so disputed by the contesting respondent.

In this backdrop, at the very outset, it has been submitted by learned counsel for the appellants that the amount awarded by the Tribunal, is on lower side, which requires extensive enhancement. It is submitted that despite the evidence coming on record about deceased Balwant Singh to be earning Rs.7950/- per month, still, the earnings have been taken only Rs.7,000- and out of the same, deduction, on account of personal expenses of the deceased, is taken as Rs.4,000/- per month, which is on higher side. The dependency, so worked upon by learned Tribunal, is only Rs.3,000/-, which is on a lower side, more particularly, when there are four dependents upon the deceased. Besides the same, also it is submitted that multiplier applied by learned Tribunal is on a lower side. Furthermore, even the compensation, is to be granted under the conventional heads, as per the settled law.

On the contrary, learned counsel for the Insurance Company submitted that the compensation granted by learned Tribunal, is just and reasonable. The appeal sans merit and the same be dismissed.

Firstly, coming to the avocation followed by the deceased Balwant Singh. Widow Paramjit Kaur, in her affidavit, has categorically stated about the deceased to be working in Armed Forces and also proved the salary certificate Ex.A8. Even, AW-3 Pritam Singh has also proved the last pay drawn certificate of the deceased, which is Ex.A11. From the certificate Ex.A8, it is evident that Balwant Singh was Havaldar, having

No.1570084P and was serving with 114 Armd Engr. Regt, C/O 56 APO. His salary is stated to be Rs.7920/- per month. However salary certificate has also been proved on record as Ex.A11, which clearly states about the salary of the deceased to be Rs.7950/- per month. In the given circumstances, the salary, as such, has to be taken as Rs.7950/-, but however, learned Tribunal had taken the salary of the deceased as Rs.7,000/- per month, which is on lower side. No reason has been assigned for taking it to be so. Considering the same, the compensation, so worked upon, as such, requires to be re-computed.

In view of the same and the salary is taken to be Rs.7950/- per month, it is also essential to mention that annual salary comes to be Rs.95,400/-. At this stage, it is pertinent to mention that at the relevant time, the standard tax exemption was for an amount of Rs.1 lakh. As such, the earnings of the deceased, never fell within the taxable limits. Considering the same, it is also further pertinent to mention that the deduction, on account of personal expenses, is taken by learned Tribunal to be Rs.4,000/- per month, which is on a higher side. As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, considering the number of dependents, the deduction has to be extent of 1/4th of the salary, which thus, comes to be Rs.1987.5, which is rounded off Rs.1988/- per month. The dependency, therefore, comes to Rs.7950-Rs.1988=Rs.5962/-.

Now, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of future prospects, has to be made, to the salary, so worked upon. Considering the age of the deceased, 30% addition has to be made as future prospects, which comes to be Rs.1788.6, which is rounded off as Rs.1789/- and after adding this amount, the salary comes to be Rs.5962+1789=Rs.7751/-.

As per ***Smt.Sarla Verma case (supra)***, considering the age of the deceased to be 41 years, which is so established, the suitable multiplier to be applied is '14' instead of '13'. After applying the multiplier of '14', the compensation is worked upon as Rs.7751x12x14=Rs.13,02,168/- per annum.

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/- to each of the claimant and for funeral expenses, it is Rs.15,000/-, which requires 10% enhancement, after a period of three years, which has since passed by. In the light of the same, appellants-claimants, are entitled to compensation, on the count of '**loss of**

consortium' to the extent of Rs.44,000/- each. Besides the same, Rs.16,500/- is to be paid as funeral expenses.

Thus, loss of dependency comes to be Rs.13,02,168/-, loss of consortium comes to be Rs.1,76,000/- (Rs.44,000/- to each of the appellant) and Rs.16,500/-, as funeral expenses. Therefore, the total comes to be Rs.14,94,668/-.

With the above observations, the appellant's appeal stands allowed. The impugned Award dated 12.04.2006 stands modified, to the extent, as indicated aforesaid. Apart from this modification regarding enhancement of compensation, the remaining terms of the impugned Award, shall remain same.

February 17, 2023 **(ARCHANA PURI)**
Vgulati **JUDGE**

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