

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

FAO-5921-2010 (O&M)
Date of Decision: March 13, 2023

Smt.Lalli Mayawati and others

...Appellants

VERSUS

Arvin Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Kulvir Narwal, Advocate
for the appellants.

Mr.Saleem Malik, Advocate
for respondent No.3.

Mr.Suvir Dewan, Advocate
for respondent No.4-Insurance Company.

ARCHANA PURI, J.

Challenge in the present appeal is to the Award dated 30.04.2010 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted to the appellants-claimants, on account of death of Raj Pal, in a motor vehicular accident.

On appraisal of the evidence adduced, learned Tribunal vide impugned Award, had granted compensation to the extent of Rs.5,27,400/- to the appellants-claimants.

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

extensive enhancement of the compensation.

So far as, the fact of accident and manner of taking place of the same as well as the fixation of the liability of the respondents, as such, are not disputed, as none of the respondents, so made liable, have challenged the Award.

In the claim petition, it was the specific claim of the appellants-claimants before the Tribunal that they are widow, minor sons as well as parents of deceased Raj Pal and they were dependent upon the earnings of the deceased. It is specific claim of the appellants-claimants that the deceased was running a motor repair shop, being a motor mechanic and was earning Rs.15,000/- per month. Lalli Mayawati, widow of the deceased, stepped into witness box as PW-2 and in her affidavit Ex.PW2/A, she had categorically]stated about the avocation, so followed by the deceased and his earnings to be Rs.15,000/- per month. It is also her specific claim that deceased used to contribute Rs.14,000/- per month for the maintenance of the appellants-claimants. However, it is pertinent to mention that no document relating to the indulgence of the deceased in running of mechanic workshop, as such, has been brought on record. Rather, appellant-claimant No.1, while facing cross-examination, has categorically stated that she does not have any document to show about her husband, running any such workshop or to show the monthly income. Considering the same and also discarding Ex.P7, which is statement of account of the bank, learned Tribunal had proceeded to assess the earnings of the deceased to be Rs.3,600/- per month, while considering him as manual labourer, in view of the rate of minimum wages, as notified by the Government of Haryana for

labourer. However, this assessment of earnings is definitely on lower side.

Now, during the course of arguments, much emphasis has been laid upon statement of account Ex.P7 and on the basis of the same, it is submitted that earnings of the deceased, as such, cannot be assessed as labourer. Very true, as so pointed out by learned counsel for the appellant. Ex.P7 is the statement of account of deceased Raj Pal, which relates to the period from 08.02.2006 to 20.10.2009. It is evident that this statement of account is immediately prior to the death of deceased, which resulted, on account of the accident, which took place on 11.11.2006. Close perusal of Ex.P7 reveals that there are cash deposit entries of the amount of Rs.1,43,000/-, Rs.7,000/-, Rs.10,000/-, Rs.23,000/-, Rs.12,000/-, at different periods of time. Similarly, it also shows about withdrawal of huge amounts from the said account of the deceased. If not anything else, this statement definitely reveals about good extent of money in circulation, in the hands of the deceased Raj Pal. This statement of account, as such, cannot be discarded. Though, this document, in itself, may not be sufficient to establish about the avocation of the deceased, so followed but anyhow, considering the extent of money in circulation, at the behest of the deceased, his earnings were definitely much above the prevalent minimum wages for the labourer, as considered by the Tribunal. Making some guess work, in modest estimate, the earnings of the deceased, can conveniently be taken to be Rs.6,000/- per month. The number of dependents upon the deceased, are five. Thus, in view of ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the deduction ought to be made, to the extent of 1/4th. As such, after making deduction of 1/4th, the loss of

dependency comes to be Rs.4,500/- per month.

From the school leaving certificate of the deceased Ex.P4, it is evident that date of birth of the deceased was 15.08.1974. Thus, on the date of accident i.e. 11.11.2006, the deceased was about 32 years of age. Taking it to be so, 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 earnings, so worked upon. Considering the age of the deceased, 40% addition has to be made as future prospects and thus, the amount comes to be Rs.4500+1800(40%)=Rs.6300/- per month. Therefore, annual dependency comes to be Rs.6300x12=Rs.75,600/-. The suitable multiplier, as per *Sarla Verma's case (supra)*, is '16'. Thus, after applying the multiplier of '16', the loss of dependency comes to be Rs.75,600x16=Rs.12,09,600/-.

In view of the guidelines laid down in *Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130* and *Pranay Sethi's case (supra)*, all the appellants-claimants, who are widow, minor sons and parents, 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.12,09,600/-, loss of consortium comes to be Rs.2,20,000/- (Rs.44,000/- to each of the appellant) Rs.16,500/- as loss of estate and Rs.16,500/-, as funeral expenses. Therefore, the total comes to be **Rs.14,62,600/-**. The differential compensation, after deduction of the Award amount of Rs.5,27,400/-, as

granted by learned Tribunal, comes to be Rs.14,62,600-5,27,400=Rs.9,35,200/-.

Out of the compensation, so now awarded, a sum of Rs.5,35,200/- shall be paid to appellant-claimant No.1-Smt.Lalli Mayawati and a sum of Rs.1 lakh each shall be paid appellants-claimants No.2 to 5. The interest component, shall remain the same, as ordered by learned Tribunal.

With the above observations, the present appeal stands allowed.

March 13, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No