2023:PHHC:161950

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4236-2012 (O&M)
Date of Decision: December 16, 2023

Mohinder Kaur and another

...Appellants

VERSUS

Pal Din and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Jimmy Singla, Advocates
for the appellants.

Mr.Prashant Bansal, Advocate
for respondent No.1.

None for respondent No.2.

Mrs.Shamsher Kaur, Advocate
for respondent No.3.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation awarded by learned Tribunal, on account of death of Davinder Singh, in a motor vehicular accident, which took place on 19.07.2006.

On appraisal of the evidence, brought on record, learned Tribunal had granted compensation to the appellants-claimants to the extent of Rs.4,55,000/-, with interest component.

So far as, the fact of accident and manner of taking place of the same, as well as the liability fastened upon the respondents, is concerned, no appeal, as such, has been filed by the persons, so made liable and thus, the said issue, does not warrant further scrutiny.

It is submitted by learned counsel for the appellants that the compensation granted by learned Tribunal is quite meagre. Even though, learned Tribunal had taken into consideration the income tax return, but however, the multiplier applied is on lower side, while keeping in view the age of the deceased. Moreover, it is submitted that addition is required to be made, on the count of 'future prospects'. Even, on the count of 'loss of estate' and 'funeral expenses', the compensation, so granted is on lower side. As such, a prayer has been made for extensive enhancement of the compensation.

Learned Tribunal, while considering material on record and also considering the income tax return, had taken the earnings of the deceased as Rs.90,000/- per annum. Since, the deceased was unmarried, deduction to the extent of 50% was made, on the count of 'personal expenses' and while, applying the multiplier of '10', the compensation was worked upon as Rs.4,50,000/-. Besides the same, another sum of Rs.2,500/- each was granted on the counts of 'loss of estate' and 'funeral expenses'. Thus, in total, compensation granted was Rs.4,55,000/-.

However, the compensation so worked upon, does calls for re-computation.

From the matriculation certificate Ex.P3, the date of birth of deceased is established to be 01.04.1979 and thus, he was 27 years old, at the time of death, in the accident in question. Furthermore, the deceased is established to be unmarried. He was well educated person, who had graduated in commerce and had also done diploma in computer application. He was also working as Steno-cum-typist. The deceased was an income tax assessee. Copy of his income tax return has been proved as Ex.P11, which reveals about the earnings of the deceased to be Rs.90,000/- per annum. The income tax return is a reliable evidence and therefore, it has been appropriately taken into consideration by learned Tribunal. Considering the marital status of the deceased, learned Tribunal had appropriately made deduction to the extent of 50%, on the ground of 'personal expenses' and thus, the dependency has been worked upon as Rs.45,000/- per annum. However, to this amount, further addition has to be made, on the count of 'future prospects', as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***,.

Considering the age of the deceased, 40% has to be added, which is to the extent of Rs.18,000/-. As such, making addition of the same, the annual earnings comes to be Rs.63,000/-. However, the multiplier applied by learned Tribunal is on lower side. As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, appropriate and suitable multiplier, to be applied is '**17**' and by applying the same, the loss of dependency, works out to be **Rs.10,71,000/-**.

Besides the same, the amounts are to be paid under the conventional heads, such like, loss of consortium, loss of estate and funeral expenses as held in ***Pranay Sethi's case (supra)***. However, in ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, the concept of consortium, has been dilated in detail and the dependents were entitled to compensation, on the count of 'parental', 'spousal' and 'filial' consortium.

In consonance with the observations made in ***Pranay Sethi's case (supra)***, as per clause of addition of 10% under the heads of 'loss of consortium', 'loss of estate' and 'funeral expenses', after every three years from the passing of the judgment, at present, the amount payable, on the count of '**loss of consortium**' comes to be **Rs.48,400/-** to each of the appellant-claimant and for the '**loss of estate**' as well as '**funeral expenses**', it is **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to dependents, on account of death of Davinder Singh, is re-computated, as herein given:-

Loss of dependency	:	**Rs.10,71,000/-**
Loss of consortium	:	**Rs.96,800/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.12,04,100/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.12,04,100-4,55,000=Rs.7,49,100/-**. On the enhanced amount of the compensation i.e. **Rs.7,49,100/-**, 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. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid discussion, the present appeal stands allowed.

However, during the pendency of the appeal, appellant No.1-

Mohinder Kaur had died and vide separate order passed today, on the miscellaneous application i.e. CM-22986-CII-2023, Amrinder Singh, son of the deceased as well as her husband Manjit Singh, ought to be considered, as legal representatives of the deceased-Mohinder Kaur. Consequently, qua compensation, falling to the share of Mohinder Kaur, 50% shall be disbursed to Amrinder Singh-son, as detailed in the appeal and the residue 50% of her share, shall be disbursed to husband Manjit Singh-appellant No.2.

December 16, 2023 **(ARCHANA PURI)**
Vgulati **JUDGE**

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