IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-10062-2014 (O&M)
Date of Decision: October 11, 2023

Raj Gupta and another

...Appellants

VERSUS

Jagdish Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rajesh Gaur, Advocate
for the appellants.

Mr.Harjinder Singh, 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, granted, on account of death of Purshotam Lal Gupta, in a motor vehicular accident, which took place on 11.06.2011.

So far as the fact of accident and manner of its taking place, as well as liability fastened upon 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 recorded by learned Tribunal have attained finality.

The specific case pleaded by the appellants-claimants in the claim petition is that Purshotam Lal Gupta (since deceased) was a registered medical practitioner and was earning Rs.30,000/- per month and on this account, the appellants-claimants had claimed compensation to the extent of Rs.30 lakh.

However, on appraisal of the evidence brought on record, learned Tribunal had reached the conclusion that no satisfactory evidence, with regard to extent of earnings of Rs.30,000/- per month, as such, has been established and considering the evidence, so adduced, the earnings of the deceased were taken to be Rs.6000/- per month. While working upon the same, the deduction was made to the extent of 1/3rd, on the count of 'personal expenses' and also considering the age of the deceased, the multiplier applied to work upon the compensation was '11' and thus, so working upon, learned Tribunal had granted compensation to the extent of Rs.5,28,000/- and besides the same, another sum of Rs.10,000/- was granted on the count 'loss of consortium' and Rs.5,000/- each was granted on the counts of 'loss of estate' and 'funeral expenses'. Thus, the total compensation worked upon was Rs.5,48,000/-

Feeling aggrieved by the extent of compensation, so granted, the appellants-claimants, who are widow and son of the deceased, have filed the present appeal.

It is categoric claim of the appellants-claimants that Purshotam Lal Gupta was running a clinic as registered medical practitioner and was earning Rs.30,000/- per month. Very true, on appraisal of the evidence brought on record, learned Tribunal had reached the conclusion that no satisfactory evidence, with regard to the avocation, so followed by the deceased, as such, has been established. Even, the extent of his earnings have not been so established. But anyhow, considering the fact that Motor Vehicle Act is a benevolent piece of legislation, the compensation, as such, has to be worked upon, while taking into consideration various circumstances, so spelt out in the evidence. Given the same, learned Tribunal had rightly considered the testimony of PW-4 Sunita, who was accompanying the deceased and sustained injuries in the accident in question. She has categorically stated about having taken lift in the car of the deceased and considering the same, learned Tribunal had reached the conclusion that the deceased was enjoying good economic status.

Considering it to be so, the earnings of the deceased, as such, has to be treated as more than that of unskilled worker. At the relevant time of accident, which took place on 11.06.2011, the earnings of the unskilled worker as prevalent in Haryana was to the extent of approximately Rs.4700/- and of a skilled worker, was approx Rs.5200/- per month. Considering the same and also keeping in view the fact of deceased maintaining a car, his earnings, in modest estimate, can conveniently be taken to be Rs.7,000/- per month. Taking it to be so, the compensation granted by learned Tribunal, as per prevalent settled law, calls for re-computation.

Considering the age of the deceased, as mentioned by his widow Raj Gupta, while facing cross-examination, to be 7-8 years elder to her, it stands amply established that the deceased fell in the age bracket of 50-55 years. Considering his age, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, on account of 'future prospects' addition of 10% has to be made to the extent of earnings and working upon the same, it comes to be Rs.7000+700(10%) =**Rs.7700/-**.

However, looking that at the number of dependents, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, deduction on the count of 'personal expenses' has to be made to the extent of 1/3rd. Thus, making this deduction of 1/3rd, the loss of dependency comes to be Rs.7700-2566(1/3rd)=Rs.5134/- and annual dependency comes to be Rs.5134x12=**Rs.61,608/-**.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)*** the appropriate multiplier to be applied is '**11**'. Thus, after applying the multiplier of '**11**', the loss of dependency comes to be **Rs.61608x11= Rs.6,77,688/-**.

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)***. 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 are entitled to compensation, on the count of 'parental', 'spousal' and 'filial' consortium, which view, has been further endorsed in ***Harpreet Kaur and others vs. Mohinder Yadav and others, 2023(1) RCR (Civil) 327***, wherein, the Hon'ble Supreme Court, while relying upon ***Magma's case (supra)***, had concluded about the children and mother of the deceased, all to be entitled to Rs.40,000/- each towards filial and parental consortium. Also, reference is made to ***Janabai and others vs. M/s I.C.I.C.I.***

Lambord Insurance Company Ltd., 2022(4) RCR (Civil) 85, wherein also, the Hon'ble Supreme Court had held the claimants of that case, each to be entitled to compensation, on the count of 'spousal consortium' for wife and 'parental consortium' for two children.

In consonance with the observations made in ***Pranay Sethi's case (supra)***, after making addition of 10%, after three years from the passing of the judgment, which has since passed by, the amount payable, on the count of '**loss of consortium**' is to extent of **Rs.44,000/-** to each of the claimant and for the '**loss of estate**' as well as '**funeral expenses**', it is **Rs.16,500/-**, on each count.

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

Loss of dependency	:	**Rs.6,77,688 /-**
Loss of consortium	:	**Rs.88,000/-**
Loss of estate	:	**Rs.16,500/-**
Funeral expenses	:	**Rs.16,500/-**
Total	:	**Rs.7,98,688/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.7,98,688/- 5,48,000=Rs.2,50,688/-**. The same be apportioned amongst the appellants-claimants equally.

On the enhanced amount of the compensation i.e. **Rs.2,50,688/-**, 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 impugned Award dated 30.03.2013 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the above observations, the present appeal stands allowed.

October 11, 2023 **(ARCHANA PURI)**
Vgulati **JUDGE**

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