

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4132-2013 (O&M)
Date of Decision: May 08, 2023

Smt.Suman Devi and others
...Appellants

VERSUS

Mahesh Kumar and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.S.K.Yadav, Advocate
for the appellants.

Respondents No.1 and 2-ex parte.

Brig. B.S.Taunque, Advocate
for respondent No.3-Insurance Company.

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 Vijay Singh, in a motor vehicular accident, which took place on 03.12.2010.

Vide Award dated 12.03.2013, learned Tribunal had disposed of three claim petitions, which had arisen from same accident.

On appraisal of the evidence adduced, learned Tribunal, vis-a-vis death of Vijay Singh, in Claim Petition No.186 of 2011, titled

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‘Smt.Suman Devi and others vs. Mahesh Kumar and other’, had granted compensation to the extent of Rs.4,83,600/- to the appellants-claimants and proforma respondent No.4, who are widow, children and mother of the deceased.

So far as, the fact of accident and manner of taking place of the same, is concerned, suffice to make mention that the persons, so made liable to pay the compensation, have not challenged the liability, so fastened upon them.

It is only the insurance company, which had made appearance, in the present appeal, through counsel.

In this backdrop, learned counsel for the appellants has assiduously submitted that learned Tribunal has erroneously considered the earnings of the deceased as Rs.4,200/- per month, which is contrary to the evidence, brought on record by claimants. Further, it is submitted that deceased Vijay Singh was drawing Rs.30,000/- per month from Private Teaching and was also indulging in agriculture and dairy farming. It is submitted that the aforesaid avocation of the deceased has not been taken into consideration. It was only a meagre amount of Rs.4,200/- which was taken as monthly earnings. Though, it is stated to have been taken as provided under Minimum wages Act, but however, at the relevant time, the minimum wages for unskilled worker was also to the extent of **Rs.4,348/-** per month. Further, also it is submitted that the under conventional heads, the compensation, so granted, is on lower side. As such, it is submitted that

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appeal be accepted and extensive enhancement of the compensation be made.

On the contrary, learned counsel for the Insurance Company has resisted the claim of the appellants. He submits that no satisfactory evidence had been brought on record, vis-a-vis, indulgence of the deceased into private teaching and also following the avocation of agriculture and dairy farming. Considering the same, the earnings, so assessed by learned Tribunal, is just and reasonable, which calls for no further enhancement. As such, it is submitted that appeal sans merit and the same deserves to be dismissed.

Very true, as so observed by learned Tribunal that no satisfactory evidence, as such, has come on record, with regard to the indulgence of deceased Vijay Singh in private teaching as well as his indulgence in agriculture and dairy farming. In the given circumstances, learned Tribunal had no option but to work upon the compensation, while taking the earnings, as provided under the Minimum Wages Act. Even though, Rs.4,200/- per month has been taken as earnings of the deceased, but however, the amount is not as per the minimum wages prevalent at that time. The accident had taken place on 03.12.2010. As per the prevalent minimum wages for unskilled labourer in Haryana, at the relevant time, the amount was Rs.4,348/- per month. As such, as per the same, the earnings were required to be taken per month, to this extent.

Considering it to be so, the deduction has to be made, on account of personal expenses. Learned Tribunal has rightly concluded that

deduction of 1/4th ought to be made, on account of personal expenses. Making it to be so, the monthly dependency is worked upon as **Rs.4348-1087(1/4th)=Rs.3,261/-**.

Keeping in view the age of the deceased to be 40 years, 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.3261+1304(40%)=Rs.4565/-** per month. Therefore, annual dependency comes to be **Rs.4565x12=Rs.54,780/-**. The suitable multiplier, as per guidelines laid down in *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, is '15'. Thus, after applying the multiplier of '15', the loss of dependency comes to be **Rs.54,780x15=Rs.8,21,700/-**.

As per the decision of the Hon'ble Supreme Court rendered 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 and proforma respondent No.4, who are widow, children and mother of the deceased, 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.8,21,700/-**, 'loss of consortium' comes to be **Rs.1,76,000/-**, **Rs.16,500/-** as 'loss of estate' and

Rs.16,500/-, as ‘funeral expenses’. Therefore, the total comes to be **Rs.10,30,700/-**. As such, the compensation, so granted by learned Tribunal stands enhanced from **Rs.4,83,600/-** to **Rs.10,30,700/-**.

Out of the compensation, so now awarded, a sum of **Rs.5 lakh** shall be paid to appellant-claimant No.1-Smt.Suman Devi and a sum of **Rs.2 lakh** each, shall be paid to appellants-claimants No.2 and 3, namely Mohit and Rohit and **Rs.1,30,700/-** shall be paid to proforma respondent No.4, namely Smt.Chandro Devi. Any amount earlier paid to the appellants-claimants and proforma respondent No.4, shall be adjusted from the aforesaid amount. The interest component, shall remain the same, as ordered by learned Tribunal.

With the above observations, the present appeal stands allowed.

May 08, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No