IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-8697-2014 (O&M)
Date of Decision: October 13, 2023

Kiran and others

...Appellants

VERSUS

Rajesh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.S.S.Duhan, Advocate
for the appellants.

Mr.Rose Gupta, Ms.Hardeep Kaur and
Ms.Garima Modi, Advocates for respondent No.2.

Mr.R.C.Gupta, Advocates
for respondent No.3.

****

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 Chander Bhan, in a motor vehicular accident, which took place on 16.07.2011.

On appraisal of the evidence adduced, learned Tribunal vide impugned Award dated 12.12.2012, had granted compensation to the extent of Rs.4,06,000/- to the appellants-claimants, who are daughters and son of the deceased.

It was concluded by learned Tribunal that deceased died in a motor vehicular accident, which was caused due to the rash and negligent driving of the car bearing registration No.HR-20L-9090, driven by respondent No.1-Rajesh. Consequently, respondents were jointly and severally held liable to pay the compensation, so granted, on account of death of Chander Bhan.

So far as, the fact of accident and manner of its taking place, 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. Hence, this issue does not warrant any further scrutiny.

At the very outset, learned counsel for the appellants-claimants has submitted that even though, deceased Chander Bhan was indulging in agriculture, dairy farming and was earning Rs.20,000/- per month, but however, learned Tribunal had erroneously considered the earnings of the deceased to be Rs.4,000/- per month and worked upon the compensation. Rather, it is submitted that the minimum wages, prevalent at the relevant time, was about Rs.4,650/- per month. Besides the same, it is also submitted that on account of 'future prospects', compensation is required to be granted. Further, under the conventional heads, there ought to be enhancement of the compensation.

Thus, learned counsel for the appellants made a prayer for extensive enhancement of compensation.

On the other hand, learned counsel for the Insurance Company has submitted that looking at the scanty evidence, coming on record, the compensation, so worked upon is just and reasonable and the same does not call for further enhancement. Thus, he submits that the appeal sans merit and the same deserves to be dismissed.

It is the version of the appellants-claimants that the deceased was working as an agriculturist and doing dairy farming and earning Rs.20,000/- per month, but however, on account of scanty evidence, coming on record, learned Tribunal had rightly considered deceased Chander Bhan to be an agricultural labourer. Even though, the earnings of the deceased have been assessed as Rs.4,000/- per month, but however, considering the minimum wages, prevalent in the State of Haryana, at the relevant time to be Rs.4,650/- for unskilled labourer, the extent of earnings, so taken by learned Tribunal is on lower side. If the actual amount of earnings of the deceased is not coming forth, then it is appropriate to consider Chander Bhan to be working as agricultural labourer and as per the minimum wages, as stated aforesaid, the earnings of the deceased, at the relevant time, can conveniently be taken to be Rs.4,650/- per month.

Learned Tribunal had considered the age, as mentioned in the post-mortem report of the deceased, which is Ex.P6, to be 48 years, but however, it is pertinent to mention that besides the post-mortem report, Voter Identity card of deceased Chander Bhan has been proved as Ex.R4, which states about age of the deceased to be 41 years in the year 1994. Considering it to be so, on the date of accident i.e. 16.07.2011, the deceased would be of 58 years. Even, in the copy of the ration card Ex.R5, the age of the deceased is mentioned as 60 years. Considering the aforesaid documents, the Voter ID card is most proximate authentic document, which can be taken into consideration, for assessment of the age of the deceased. Considering the same, the deceased at the time of accident, fell in the age bracket of 55-60 years.

Considering the age of the deceased as aforesaid, 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. Taking it to be so, the monthly earnings of the deceased works out to be Rs.4650+465(10%)=Rs.5115/-.

However, looking at the number of appellants-claimants, who are three daughters and a son of the deceased, 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 1/4th. Thus, making this deduction of 1/4th, the loss of dependency comes to be Rs.5115-1278(1/4th)=Rs.3837/- and annual dependency comes to be Rs.3837x12=**Rs.46,044/-**.

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.46044x11= Rs.5,06,484/-**.

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 were held 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 the 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 Chander Bhan, is re-computated, as herein given:-

Loss of dependency	:	**Rs.5,06,484/-**
Loss of consortium	:	**Rs.1,76,000/-**
Loss of estate	:	**Rs.16,500/-**
Funeral expenses	:	**Rs.16,500/-**
Total	:	**Rs.7,15,484/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.7,15,484-4,06,000=Rs.3,09,484/-**. On the enhanced amount of the compensation i.e. **Rs.3,09,484/-**, 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 enhanced compensation, as now awarded, be apportioned amongst the appellants-claimants equally.

The impugned Award dated 12.12.2012 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 13, 2023 **(ARCHANA PURI)**
Vgulati **JUDGE**

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