2024:PHHC:056008

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) FAO-3032-2002 (O&M)

Bimla Bist and others

...Appellants

VERSUS

Jogender Singh and others

...Respondents

(ii) FAO-3033-2002 (O&M)

Asha Rani and others

...Appellants

VERSUS

Jogender Singh and others

...Respondents

Date of Decision: April 24, 2024

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sudhir Aggarwal and Mr.Ishan Aggarwal, Advocates for the appellants.

Mr.Suman Jain, Advocate for respondent No.3-insurance company.

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ARCHANA PURI, J.

These are two appeals, filed at the instance of the appellants-claimants, thereby seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of deaths of Jiwan Singh and Lajpat Rai, in a motor vehicular accident, which took place on 21.11.1997.

Three claim petitions, filed to seek compensation on account of injuries sustained by Sonali alias Ginni and on account of deaths of Jiwan

Singh and Lajpat Rai, were consolidated and disposed of vide Award dated 05.01.2002.

On appraisal of the evidence, brought on record, learned Tribunal, vis-a-vis, death of Lajpat Rai had granted compensation to the extent of Rs.16,86,504/-. Qua the death of Jiwan Singh, learned Tribunal had granted compensation to the extent of Rs.4,27,400/-.

Feeling aggrieved by the extent of compensation, so awarded, present appeals have been filed by the respective appellants-claimants.

FAO-3032-2002 has been filed qua compensation granted, on account of death of Jiwan Singh.

FAO-3033-2002 has been filed qua compensation granted, on account of death of Lajpat Rai.

So far as, the factum of accident, manner of its taking place and the liability fastened upon the respondents, is concerned, it is pertinent to mention that none of the respondents, have challenged the findings, so recorded and therefore, this aspect, calls for no further judicial scrutiny.

It is only the insurance company, who had made appearance through counsel.

In this backdrop, firstly, let us consider the case of death of Lajpat Rai, in the accident in question.

It is the categoric claim of the appellants-claimants that deceased Lajpat Rai was 46 years old and was working on the post of Conservator of Forests, Society Forestry Project, Ambala, Haryana Government and was drawing salary of more than Rs.20,000/- per month. Besides the widow of deceased, namely Asha Rani, stepping into witness box as PW-2, the claimants have examined PW-3 Sham Murari, Assistant in the office of Conservator of Forest, who, on the basis of the record brought by him, deposed about posting of the deceased as Conservator of Forests at Ambala and about him to be drawing salary of Rs.20,108/- per month, at the time of his death. This witness proved the pay statements, which are Ex.P3 and P4. Furthermore, he also proved the list of promotees of the department and that the person namely B.D.Monga, who was at par with the deceased, has since been promoted as Chief Conservator of Forest in February 1999, vide order Ex.P6.

While taking the earnings of deceased as Rs.20,108/- and further making deduction of 1/3rd, on account of personal expenses, the dependency was worked upon as Rs.12,738.66 per month, annual whereof was worked upon as Rs.1,52,864/-. To the said amount, multiplier of '11' was applied and the compensation was worked upon as Rs.16,81,504/-, to which addition of Rs.5,000/- was made, on account of 'funeral expenses and transportation charges' and thus, the total compensation was worked upon as Rs.16,86,504/-. However, the compensation, so worked upon by learned Tribunal, as per prevalent law, do call for re-determination.

At this juncture, it is pertinent to mention that Jugal Kishore, father of the deceased had died during the pendency of the claim petition and the compensation was granted to the widow and children of deceased Lajpat Rai only.

From the seniority list Ex.P5 proved by PW-3 Sham Murari, it is evident that the date of birth of the deceased was 03.05.1951. As such, at the time of death, having taken place on 21.11.1997, deceased Lajpat Rai was 46½ years old. Even, the deceased holding the post of Conservator of Forest and his earnings to be Rs.20,108/- per month, stands amply established from the salary record proved by PW-3 Sham Murari. Perusal of the salary slip reveals about the salary of the deceased to be Rs.20,108/-, which is now rounded off to Rs.20,100/-, annual whereof, comes to be Rs.2,41,200/-.

As per prevalent income tax, at the relevant time, there was no tax payable upto the income of Rs.40,000/-. Thereafter, for the income bracket of Rs.40000/- to Rs.60,000/-, the tax payable was to the extent of 10% i.e. Rs.2000/-. From the income bracket of Rs.60000/- to Rs.15,000/-, the tax was 20% i.e. Rs.18,000/- and for the income from Rs.1,50,000/- onwards, the tax payable was @ 30% and therefore, in the case of the deceased, it comes to Rs.27,360/- (Rs.241200-150000=Rs.91200x30%). Thus, the total tax payable comes to be Rs.47360/- and the residue annual income comes to be Rs.1,93,840/-.

Keeping in view the age of the deceased, as per ***Pranay Sethi's case***, addition of 30%, on the count of 'future prospects' ought to be made. Thus, the annual income of the deceased is worked upon as Rs.193840+Rs.58152(30%)=Rs.2,51,992/-.

Learned Tribunal had deducted 1/3rd from the income, but however, looking at the number of dependents, as per ***Sarla Verma's case***, the deduction ought to be made to the extent of 1/4th and after deducting the same, the annual dependency is worked upon as Rs.251992-62998(1/4th)=Rs.1,88,994/-.

National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009
Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77

Learned Tribunal had erroneously applied the multiplier of '11', but however, considering the age of the deceased, as per ***Sarla Verma's case,*** appropriate and suitable multiplier, to be applied is '**13**' and while applying the same, the loss of dependency, works out to be Rs.188994x13= **Rs.24,56,922/-**.

Besides the aforesaid, the compensation awarded by learned Tribunal, under the conventional heads, definitely calls for intervention.

As per ***Pranay Sethi's case (supra)***, the compensation, ought to be paid to the claimants, on the count of 'loss of consortium', 'loss of estate' and 'funeral expenses', which was stated to be to the extent of Rs.40,000/-, Rs.15,000/- and Rs.15,000/- respectively. However, with the enhancement clause of 10%, after every three years of the passing of the judgment, the compensation, on the aforesaid counts, works out to be, **Rs.48,400/-, Rs.18,150/-** and **Rs.18,150/-**, respectively.

As per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, all the dependents of the deceased/claimants, are entitled to 'parental', 'spousal' or 'filial' consortium, as required.

Considering the same, the compensation payable to appellants-claimants on account of death of Lajpat Rai, is computed, as herein given:-

Loss of dependency	**:**	**Rs.24,56,922/-**
Loss of consortium	**:**	**Rs.2,42,000/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.27,35,222/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.27,35,222-16,86,504=Rs.10,48,718/-**.

Now, let us consider the case of death of Jiwan Singh. It is categoric claim of the appellants-claimants that deceased Jiwan Singh was employed as Peon in Forest Department, at the relevant time and he was earning Rs.3293/- per month. PW-3 Sham Murari has deposed about date of birth of Jiwan Singh to be 05.07.1973 and that he was employed as Peon in the Forest Department and earning Rs.3293/- per month, as salary. He proved the pay statement Ex.P7 and fixation of pay Ex.P8.

Thus, from the aforesaid, it is evident that deceased Jiwan Singh was 24 years old, at the time of his death, in the accident in question and was drawing salary to the extent of Rs.3293/-, annual whereof comes to be Rs.39,516/-, which was within the exempted limit of income tax, at the relevant time.

To this amount, keeping in view the age of the deceased, an addition of 50% ought to be made, on the count of ‘future prospects. Thus, the income is worked upon as Rs.3293+Rs.1646(50%)=Rs.4,939/-.

Learned Tribunal had deducted 1/3rd from the income, but however, looking at the number of dependents, as per ***Sarla Verma’s case***, the deduction ought to be made to the extent of 1/4th and after deducting the same, the dependency is worked upon as Rs.4939-1234=Rs.3705/-, annual whereof, comes to be Rs.44,460/-.

Learned Tribunal had erroneously applied the multiplier of ‘16’, but however, considering the age of the deceased, as per ***Sarla Verma’s case,*** appropriate and suitable multiplier, to be applied is ‘**18**’ and while applying the same, the loss of dependency, works out to be Rs.44460x18= **Rs.8,00,280/-**.

At this juncture, it is pertinent to mention that learned Tribunal had granted the compensation, while taking into consideration the fact of father of the deceased to be alive and dependent upon him. However, learned counsel for the insurance company submits that Gopal Singh Bist, father of deceased Jiwan Singh, was not dependent upon the deceased. As such, the conclusion drawn is erroneous.

The word '**dependent**' has a different meaning in different connotation. Some may be dependent in terms of money and other may be dependent in terms of service. It does not mean financial dependency only. Dependency includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money. Reverting to the case in hand, it is pertinent to mention that deceased was 24 years old, at the time of accident. Even, assuming that appellant-claimant No.5, being father of the deceased, may not be dependent financially, upon the deceased, but however, at this age, father is definitely emotionally and psychologically dependent upon his young child and also he has service dependency. In the given circumstances, appellant-claimant No.5, ought not to be deprived of the compensation, to be so worked upon. As such, the finding, got recorded by learned Tribunal, thereby holding father of the deceased to be dependent upon the deceased is hereby affirmed.

Besides the aforesaid, as already observed in the earlier portion of the judgment, the appellants-claimants are entitled to compensation under the conventional heads namely 'loss of consortium', 'loss of estate' and 'funeral expenses', to the extent of **Rs.48,400/-, Rs.18,150/-** and **Rs.18,150/-**, respectively.

Considering the same, the compensation payable to appellants-claimants on account of death of Jiwan Singh, is computed, as herein given:-

Loss of dependency	**:**	**Rs.8,00,280 /-**
Loss of consortium	**:**	**Rs.2,42,000/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.10,78,580/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.10,78,580-4,27,400=Rs.6,51,180/-**.

The compensation awarded by learned Tribunal shall be disbursed to the appellants-claimants of both the cases, as per terms of the Award, if not paid.

Out of the enhanced amount of compensation of **Rs.10,48,718/-**, as now awarded qua death of Lajpat Rai, appellants-claimants No.2 to 5 are held entitled to Rs.1 lakh each, whereas, appellant-claimant No.1 is held entitled to residue amount Rs.6,48,718/-. Similarly, in the case of death of Jiwan Singh, out of the enhanced amount of compensation of **Rs.6,51,180/-**, appellants-claimants No.2 to 5 are held entitled to Rs.75,000/- each, whereas, appellant No.1 is held entitled to residue amount of Rs.3,51,180/-.

However, on the enhanced amount of the compensation, in both the appeals, 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, shall remain the same.

With the above observations, both the appeals stand allowed.

April 24, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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