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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1907-2003
DECIDED ON: 23.09.2024

RAJ RANI AND OTHERS .....APPELLANTS

VERSUS

VED PARKASH AND OTHERS .....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Nischal Chetanya Manchanda, Advocate,
for the appellants.

Mr. Suman Jain, Advocate, and
Mr. Man Mohan, Advocate,
for respondent No.3.

SANJAY VASHISTH, J (ORAL)

1. Since, the paper book is in burnt condition, on asking of the Court, learned counsel for the appellants has supplied the complete set of paper book in the Court today. Besides, photocopy of the post mortem report has also been produced in the Court today.

2. Complete set of both the paper books and photocopy of the post mortem report are taken on record, subject to all just exceptions. Registry is directed to tag the same at the appropriate place on the file.

3. Present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as 'claimant') in MACT Case No.32 of 2001, dated 07.04.2001, for modification of award dated 13.02.2003, passed by Ld. Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as 'Ld. Tribunal') by making

enhancement of amount of compensation, on account of death of deceased –Ram Chander.

4. Briefly stated, facts of the case are that on 08.03.2001, at about 6:30 P.M. Ram Chander (deceased) was coming from factory i.e M/S GVN Engg., near Babarpur Mandi , G.T. Road, to the workshop on G.T Road on his bicycle. When he reached near Himachal Dhaba, near village Simla-Mulana, a Maruti Car bearing registration No.HR-070-7095 driven by respondent no.1 in a rash and negligent manner hit his bicycle as a result of which he suffered multiple grievous injuries and ultimately succumbed to them. Resultantly, FIR No.39 dated 08.03.2001 was also registered.

5. Appellant-Raj Rani widow of the deceased and their four minor children-Sunil, Madhu, Nisha and Deepak, filed a claim petition under Section 166/140 of the motor vehicle Act, 1988 for seeking compensation to the tune of Rs. 10 lacs on account of death of 'Ram Chander' in the motor vehicular accident. However, after going through the record, appreciating the evidence, examining the witnesses and hearing the arguments of both the sides, Ld. Tribunal assessed the monthly income of the deceased as Rs.2,100/-, deducted 1/3rd on account of his personal expenses, applied the multiplier of 16, granted Rs.10,000/- with respect to funeral expenses, loss of consortium and estate and accordingly, awarded total compensation to the claimant to the tune of Rs.2,78,000 /- payable by respondents severally and jointly with interest @9% per annum from the date of filing of the petition till its realization.

Appellants/Petitioners/Claimants have filed the present petition, seeking enhancement of the compensation as awarded by the Ld. Tribunal.

6. While addressing arguments, counsel for the appellants submits that the Ld. Tribunal has erred in determining the monthly salary of the deceased –Ram Chander as he was working as Mistri (mechanic) in the workshop of GVN Engineers at G.T Road, Panipat and used to earn Rs.7,000/- per month, failed to enhance the income on account of future prospects; erred in applying multiplier; has deducted personal expenses on the higher side and granted only lump-sum compensation of Rs.10,000/- on account of funeral expenses, loss of consortium and loss of estate.

7. On the other hand, Ld. Counsel for Respondent No.3 – Insurance Company, submits that the Ld. Tribunal has rightly determined the monthly salary of the deceased and there is no need to interfere in the amount of compensation awarded by the Ld. Tribunal. Thus, the present appeal was liable to be dismissed.

8. This Court has gone through the impugned award and the calculations mentioned therein, apart from hearing learned counsel for the parties. There is no doubt that in a situation where the different Courts at different times were at diversions in their opinion and in the absence of any clarification by the law makers despite recommendations by the Hon'ble Apex Court, all the major issues were referred to the larger Bench, and accordingly, Constitution Bench was constituted in **National Insurance Company Limited v. Pranay Sethi and Others 2017 (4)**

RCR (Civil) 1009:Law finder Doc ID #918174. Thus, for the purpose of reaching out to appropriate amount of compensation for adjudging the rights of the claimants, guidelines laid down in the judgment of the Constitution Bench in Pranay Sethi's case (supra), would help the Courts.

9. No evidence has been led to prove that deceased was working as mechanic and earning Rs.7,000/-per month. In the absence of any evidence, this court considers the deceased as an unskilled worker and accordingly, applies the minimum wage prevalent on the date of death of the deceased i.e. 08.03.2001, in the state of Haryana. Therefore, the monthly income of deceased has been correctly assessed by the Tribunal as Rs.2,100/-.

The Tribunal has assessed the age of deceased as 30 years, however, upon a closer examination of facts and memorandum of parties of the present appeal, it becomes evident that the deceased was likely older than 30 years. His wife is 35 years of age, as per the MOP, and in an Indian society, usually husbands are older than their wives. Furthermore, the eldest son of the deceased is 15 years old, which implies that even if the deceased married at the age of 18, his age would still exceed 30 years.

Therefore, age recorded in PMR (post mortem report) appears to be correct.

10. Thus, from the evidence on record, it stands established that the deceased was aged 40 years and as per Pranay Sethi's case (supra), addition of 25%, on the count of 'future prospects' has to be made and

total amount of earnings comes to be Rs.2,100 + Rs.525 (25% of Rs.2100) = Rs.2,625/- per month.

Out of the same, keeping in view the number of dependents i.e. widow and four children, 1/4th is to be deducted on account of 'personal expenses', which is to the extent of Rs.656.25/- and the residue amount works out to be Rs.1968.75/- per month and annual income comes out to be Rs.23,625/- (Rs.1968.75 x 12). Considering the age of the deceased as per **Smt. Sarla Verma & Ors. Vs Delhi Transport Corporation & Anr., (2009) 6 SCC 121**, the appropriate multiplier to be applied in the present case is '15' and after, applying the multiplier, the loss of dependency comes to be Rs.23,625 x 15 = Rs.3,54,375/-.

11. Rest of the parameters are assessed and calculated in accordance with the judgment of this Court titled as **Sangtari Muleem v. Karnail Singh, (FAO No. 2538 of 2006, D/d. 07.07.2023) : Law Finder Doc Id # 2270482**, which is in consonance with the settled proposition of law laid down by the Apex Court in **Pranay Sethi's case (supra)**, and **Smt. Sarla Verma's case (supra)** and **Smt. Anjali and others v. Lokendra Rathod and others, 2023 (1) R.C.R. (Civil) 229 : Law Finder Doc Id #2081014**.

12. Claimants are entitled for Rs.25,000/- as compensation under the head of funeral expenses and Rs.20,000/- towards loss of estate**.** Loss of consortium is to be awarded to the tune of Rs.48,400/- for each of the claimants in the instant appeal.

13. For the sake of convenience, a comparative table of the compensation as assessed and calculated by Ld. Tribunal and this Court is produced below in a tabular form:

Sr. No.	**Heads**	**Compensation awarded by the Ld. Tribunal**	**Compensation awarded by the High Court**
1.	Income	Rs.2,100/-p.m.	Rs.2,100/-p.m.
2.	Future Prospects	Nil	Rs.525(25% of Rs.2,100)
3.	Deduction towards personal expenses	Rs.700/- (1/3rd of Rs.2,100)	Rs. 656.25/-(1/4th of Rs.2,100 +Rs.525)
4.	Total Annual Income	Rs.16,800/-	Rs.23,625/- (Rs.1968.75 X 12)
5.	Multiplier	16	15
6.	Loss of Dependency	Rs.2,68,800	Rs.3,54,375/-.
7.	Funeral Expenses	Rs.10,000/-	Rs.25,000/-
8.	Loss of Estate		Rs.20,000/-
9.	Loss of Spousal Consortium		Rs. 48,400 /-
10.	Loss of Parental Consortium	Nil	Rs.1,93,600/- (48,400 X 4)
11.	Loss of filial Consortium		Nil
12.	Total Compensation to be Paid	**Rs.2,78,600/-**	**Rs.6,41,375/-**

14. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 9% per annum from the date of filing of the claim petition till. However, learned counsel appearing on behalf of respondent No.3 – Insurance Co., submits that the rate of

interest should not be over the awarded amount and therefore, it should not be more than 6% per annum.

15. Thus, keeping in view the aim of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellant (petitioner/claimant) is enhanced to **Rs.6,41,375/- (Six lacs forty one thousand three hundred and seventy five Rupees),** within a period of three months from the date of this order**,** along with interest at 7.5% per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (claimants).

16. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award would be adjusted.

17. Therefore, by partly modifying the award, present appeal is hereby allowed with the terms indicated here-above.

(SANJAY VASHISTH)
JUDGE

23.09.2024
Lavisha

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