

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-1856-1998 (O&M)
Date of Decision: May 06, 2024

Smt.Maya Devi and others
...Appellants

VERSUS

Rohtash and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

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

Mr.V. Ramswaroop, Advocate
for respondent No.6-insurance company.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Piare Lal, in a motor vehicular accident, which took place on 09.12.1995.

Vide impugned Award dated 16.03.1998, learned Tribunal had decided three claim petitions, arising from the same accident.

The facts germane, to be noticed, are as follows:-

That, on 09.12.1995, an accident took place on National Highway near Parphati factory, within jurisdiction of Police Station Bilaspur, in which, Rajesh Khanna aged 15 years, Piare Lal aged 20 years and Rajinder

Singh received injuries. The victims were going in truck bearing registration No.HR-38-7968 to attend rally of Chaudhary Bansi Lal at village Manesar. When the said truck reached near Parphati factory, a small bodied truck was going ahead of the said truck. When the driver of the truck bearing registration No.HR-38-7968 tried to overtake the said small bodied truck, in that process, the offending tralla bearing registration no.HR-38A-1025, came from the front side, driven in a rash and negligent manner. When both the aforesaid truck and tralla were crossing each other, the back portion of truck struck the said tralla, as a result whereof, the truck turned turtle and occupants of the truck sustained injuries. When Piare Lal was taken to Pushpanjali Hospital, he was declared dead. It is specifically claimed that the accident had taken place due to contributory rashness and negligence of both the drivers of the truck and tralla i.e. respondent No.1-Rohtash and respondent No.4-Nasruddin.

Claim petition bearing No.80 of 1996 titled 'Smt.Maya Devi and others vs. Rohtash and others' was filed by the widow, minor daughter and parents of deceased Piare Lal.

Said Piare Lal was asserted to be 20 years old and student of ITI College Faridabad. Besides the same, he was working as labourer and earning Rs.1500/- per month.

On appraisal of the evidence, adduced on record, learned Tribunal had considered the earnings of deceased Piare Lal as Rs.1500/- per month, being labourer. After making deduction of 1/3rd, on account of personal expenses, the loss of dependency was taken as Rs.1000/-. Multiplier applied by learned Tribunal was '15' and considering the same,

the compensation was worked upon Rs.1,80,000/-.

Also, it was concluded by learned Tribunal that accident had taken place due to contributory negligence of both the drivers of truck bearing registration HR-38-7968 and tralla bearing registration No.HR-38A-1025. Both the drivers, owners and respective insurers of the offending vehicles, were held, jointly and severally to pay the compensation.

At the very outset, be it noted that none of the respondents, who were made liable, to pay the compensation, have filed any appeal, to assail the findings on the said aspect. As such, this aspect, warrants no further scrutiny. It is pertinent to mention that the appeal has been filed only by appellants-claimants, for seeking enhancement of the compensation.

While making reference to the evidence adduced before learned Tribunal, it has been submitted by learned counsel for the appellants that the compensation has been granted miserably on lower side, which calls for extensive enhancement, on various counts, to which amiss has been given by learned Tribunal.

On the other hand, learned counsel for the insurance company resisted the claim of the appellants and he submits that just compensation has been worked upon and thus, appeal should be dismissed.

However, as per prevalent law, the compensation, so worked upon, as detailed aforesaid, do call for re-determination.

Even though, it is specific version of the appellants-claimants about deceased Piare Lal to be student of ITI College, but however, no satisfactory evidence, relating to this aspect, has come on record and in the given circumstances, learned Tribunal has rightly not considered this status

of the deceased. However, considering him to be a labourer, the amount of the earnings of the deceased i.e. Rs.1500/- per month, taken by learned Tribunal, is just and reasonable.

However, the deduction made by learned Tribunal, on the count of 'personal expenses' is on higher side. As per *Sarla Verma's case*, when the dependents are between to 4-6 in number, the deduction, on the count of 'personal expenses' has to be 1/4th. The present appeal has been filed by widow, minor daughter and parents of the deceased. Though, now it is submitted that father of the deceased, as such, cannot be considered as dependent, but aforesaid submission is not tenable.

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 20 years old, at the time of accident. Even, assuming that appellant-claimant No.4, 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.4, ought not to be deprived of the compensation, to be so worked upon.

Considering the aforesaid, the deduction has to be made to the extent of 1/4th. Thus, making this deduction, the loss of dependency comes

to be Rs.1500-375=Rs.1125/-.

Considering the age of the deceased to be 20 years, as per *Pranay Sethi's case*, addition of 40% ought to be made, on the count of 'future prospects'. Making it to be so, the income of the deceased is worked upon as Rs.1125+Rs.450(40%)=Rs.1575/-, annual whereof, comes to be **Rs.18,900/-**.

Considering the age of the deceased, as per *Sarla Verma's case*, appropriate and suitable multiplier, to be applied is '18' and by applying the same, the loss of dependency, works out to be Rs.18900x18=**Rs.3,40,200/-**.

Besides the aforesaid, under the conventional heads, as per *Pranay Sethi's (supra)*, the compensation ought to be paid, on the count of 'loss of consortium', 'loss of estate' and 'funeral expenses'. As per '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*', whosoever are the dependents of the deceased/claimants, are entitled to 'parental', 'spousal' or 'filial' consortium, as required. In view of the same, appellants-claimants are entitled to compensation, on the aforesaid counts.

As per *Pranay Sethi's case (supra)*, the compensation payable, with enhancement clause of 10%, after every three years of passing of the judgment, on the count of 'loss of consortium' is to the extent of **Rs.48,400/-**, to each of the claimants (i.e. Rs.48400x4=Rs.1,93,600/-) and on the similar pattern, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

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

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

Loss of dependency	:	Rs.3,40,200/-
Loss of consortium	:	Rs.1,93,600/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.5,70,100/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,70,100-1,80,000=Rs.3,90,100/-**. On the enhanced amount of the compensation i.e. **Rs.3,90,100/-**, 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.

Out of the compensation, as now enhanced, appellant-claimant No.1-Smt.Maya Devi, is held entitled to Rs.1,90,100/-, appellant-claimant No.2-Kumari Hemlata Devi is held entitled to Rs.1,00,000/-, whereas, appellants-claimants No.3 and 4 i.e. Sh.Ram Pal and Smt.Jeeto Devi, are held entitled to Rs.50,000/- each.

In view of the aforesaid terms, the present appeal stands allowed.

May 06, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No