IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-517-1998 (O&M)
Date of Decision: December 18, 2024

Mam Kaur and others

...Appellants

VERSUS

Pardeep Kumar Sharma and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Viney Saini, Advocate
for the appellants.

Mr.Vijay Kumar Goyal, Advocate
for respondent No.1.

Mr.Brij Bhushan Sharma, Advocate for
Mr.Deepak Suri, Advocate
for respondent No.6.

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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 Rulia Ram, in a motor vehicular accident, which took place on 15.12.1995.

Vide impugned Award dated 03.04.1997, learned Tribunal had decided five claim petitions, arising from the same accident. Claim petition filed by the appellants-claimants, relating to death of Rulia Ram was bearing MACT No.43 of 1996, titled as 'Mam Kaur and others vs. Pardeep Kumar Sharma and others'.

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

That, on 15.12.1995, Rulia Ram along with various other occupants, while in jeep bearing registration No.HP-20-0449, were proceeding back from Panchkula to their village. When they reached in the area of village Dhannu Majra, P.S. Lalru, at about 7.30 p.m., a tanker bearing registration No.HP-20-1301, driven by respondent No.1-Pardeep Kumar Sharma, came from opposite side, which was driven in a rash and negligent manner and it struck into the jeep, on its front side, as a result whereof, all the occupants of the jeep sustained multiple injuries. Rulia Ram had died at the spot, whereas, other occupant Nanak Chand, died, while proceeding to the Civil Hospital, Derabassi and three other persons had sustained injuries.

Upon this, the appellants-claimants, who are widow, mother and sons of the deceased Rulia Ram, had filed the claim petition to seek compensation.

On appraisal of the evidence, brought on record, learned Tribunal concluded about deceased to be having monthly income of Rs.2500/- and after applying the theory of units, it concluded that deceased was spending Rs.500/- on himself and another amount of Rs.250/- was taken as pocket expenses of the deceased and thus, it was held that deceased Rulia Ram was spending Rs.750/- upon himself. The contribution towards the family was taken as Rs.1750/- per month. Considering the age of the deceased, multiplier of '13' was applied and the compensation was worked upon as Rs.2,73,000/-. Besides the same, another amount of Rs.7,000/- was granted towards 'funeral and transportation' of the deceased. In total, the compensation granted was Rs.2,80,000/-.

Furthermore, apportionment of the compensation was made. Rs.1,50,000/- was granted to appellant-claimant No.1 whereas, an amount of Rs.50,000/- each was granted to claimants No.2 and 3, who are the sons of the deceased and residue amount of Rs.30,000/- was granted to Smt.Narauti Devi, mother of deceased Rulia Ram.

Feeling aggrieved by the aforesaid extent of compensation, the appellants-claimants have filed the present appeal for seeking enhancement of the compensation.

The extent of compensation, so worked upon by learned Tribunal and the apportionment done, do call for re-determination, as per the prevalent settled law.

At this juncture, it is pertinent to mention that during the pendency of the appeal, Mam Kaur, widow of Rulia Ram as well as Satpal, one of the sons of Rulia Ram and Smt.Narauti Devi, mother of Rulia Ram, had died and their legal representatives have been impleaded and amended memo of parties has been brought on record.

It is categoric claim of the appellants-claimants that deceased Rulia Ram was an agriculturist and he was indulging in dairy farming. His age was asserted to be 50 years. Mam Kaur, widow of the deceased had stepped into witness box as PW-1. She had stated the age of the deceased to be 50 years. However, in the post-mortem report, which has been proved as Ex.P33, the age of the deceased is stated to be 60 years. There is no other concrete evidence, coming on record, relating to the age of the deceased. In the given circumstances, taking the average, in any case, the deceased is held to be falling in the age group of 51-55 years

It is categoric claim that the deceased was working as an agriculturist and even the jamabandi of the land, has also been proved on record. No doubt, as submitted by learned counsel by respondents, the land must be still with the appellants, but however, the fact remains that the managerial skills of the deceased are not there to render assistance in the cultivation of the land and this fact, also ought to be taken into consideration. Also, it is coming in the evidence that the deceased was also Numberdar of the village as well as the member of the Panchayat, which fact, as such, is not controverted by way of cross-examination of Mam Kaur.

Considering the aforesaid evidence, it is evident that deceased belonged to a reasonably well settled family. Considering the same and also considering the land available with the appellants-claimants, after the death of Rulia Ram and furthermore, also taking into consideration the minimum wages, at the relevant time, the extent of monthly earnings as Rs.2500/-, so taken by learned Tribunal is just and reasonable.

To the said amount, considering the age of the deceased, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 10% ought to be made, on the count of 'future prospects'. Thus, the income of the deceased is worked upon as Rs.2500+250(10%)=**Rs.2750/-**.

However, the deduction made, on the count of 'personal expenses' on the basis of units, is not appropriate. It is evident from the material coming on record, two of the children of deceased were not joined in the proceedings, either as claimants or respondents.

From the amended memo of parties as well as considering the testimony of Mam Kaur, it is pertinent to mention that besides Des Raj and Sat Pal, sons of the deceased, there was one daughter, namely Nirmla Devi and one son, namely Karmchand, who have not been made party, probably on account of, they being married children. Even though, Nirmla Devi and Karmchand, are other two children of the deceased, who are stated to be married, but however, fact remains that they are the children of the deceased and that being so, keeping in view the law laid down in ***National Insurance Company Limited v. Birender [(2020) 11 SCC 356]***, even the married children, cannot be denied compensation, solely on account of they being married and settled in their own lives. The fact remains, in our Indian society, even though, the children may be married, still the parents shower their love and affection upon them and there is dependency of the children upon the parents, which may not be financial, many a times, but however, there may be gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money. Thus, considering the same, the married children of deceased are also entitled to compensation, though, the extent of compensation, may be worked upon, as per the factual circumstances, coming forth.

Considering the same, for all intents and purposes, other two children, apart from the claimants, are taken as dependents. Since, Nirmla and Karmchand, married children of the deceased, were not impleaded as party before learned Tribunal, at this stage, after such a long interregnum period, it shall not be appropriate to remand back the case. Since the particulars of married children are coming forth, in the amended memo of parties, therefore, this Court deems it fit appropriate to proceed further, while considering the entitlement of the married children also, to the compensation on account of death of their father Rulia Ram. Hence, Nirmla Devi and Karmchand, whose particulars are mentioned in the amended memo of parties, on account of death of few of the appellants and considering the necessity of LRs to be impleaded, as per law, are hereby impleaded as **respondents No.7 and 8**. **Necessary addition to this effect be made by the Registry, in the amended memo of parties.**

Considering the same, the deduction ought to be made, in accordance with the guidelines laid down in ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***. Thus, the deduction on the count of 'personal expenses' is to be made to the extent of 1/4th. While making this deduction of 1/4th, the loss of dependency comes to be Rs.2750-687(1/4th)=Rs.2063/-, annual whereof, comes to be Rs.2063x12=**Rs.24,756/-**.

So far as, the application of multiplier is concerned, learned Tribunal has correctly applied the multiplier of '13', as per ***Sarla Verma's case (supra)***, and while applying the same, the loss of dependency, works out to be Rs.24756x13=**Rs.3,21,828/-**.

Besides the same, as per ***Pranay Sethi's case (supra)***, under the conventional heads, the appellant-claimant is entitled to compensation on the counts 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.

As per ***Pranay Sethi's case (supra)***, the compensation, ought to be paid to the dependents on the count of 'loss of consortium', was to the extent of Rs.40,000/-. However, with the enhancement clause of 10%, after every three years of the passing of the judgment, the compensation, on the aforesaid count, works out to be, Rs.48,400/- to each of the dependents i.e. Rs.48400x6=**Rs.2,90,400/-** 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.

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

Loss of dependency	**:**	**Rs.3,21,828/-**
Loss of consortium	**:**	**Rs.2,90,400/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.6,48,528/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.6,48,528-2,80,000=Rs.3,68,528/-**. On the enhanced amount of the compensation i.e. **Rs.3,68,528/-**, the appellants-claimants shall be entitled to the interest, at the rate of 8% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. However, out of the enhanced amount, as now awarded, appellant-claimant No.1-Mam Kaur is held entitled to Rs.1,50,000/-, appellants-claimants No.2 and 3 and respondents No.7 and 8 (as now impleaded) are held entitled to Rs.50,000/-

each, whereas, appellant-claimant No.4, is held entitled to residue amount of Rs.18,528/-.

Accordingly, the impugned Award dated 03.04.1997 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, with regard to the liability to pay the compensation, as ordered by learned Tribunal, shall remain the same.

With the above observations, the present appeal stands allowed.

A copy of this judgment together with the amended memo of parties be sent to the successor Tribunal, to further initiate steps for disbursement of the apportioned share of compensation to married children of the deceased, namely, Nirmla Devi and Karmchand in their own capacity, together with proportionate shares, out of the compensation awarded to Mam Kaur, apart from their own individual entitlement along with other LRs. Likewise, the compensation falling to the share of Satpal, be also equally apportioned amongst his LRs. Similarly, the compensation falling to the share of Smt.Narauti Devi, be disbursed to the LRs, as mentioned in the amended memo of parties, in equal proportions.

December 18, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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