2024:PHHC:104504

In the High Court of Punjab and Haryana at Chandigarh

FAO No.2857 of 2001(O&M)
Date of Decision: 12.08.2024

Mrs. Gulzar Rani and others .....Appellants

Versus

Jagat Singh and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Anil Kumar Spehia, Advocate for the appellants.

Mr. Aseem Aggarwal, Advocate for respondent No.3-Insurance Company.

Respondents No.1 and 2 stated to have died.

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RITU TAGORE, J.

1. The claimants are in appeal before this Court seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Rupnagar (in short 'the Tribunal') on account of death of Chaman Lal in a motor vehicular accident that took place on 29.10.1998. The accident was caused by respondent No.1/driver while driving the offending vehicle i.e. bus bearing registration No.PB-11-A-4725, in a rash and negligent manner.

2. On being put to notice, respondents (driver, owner and insurer), on appearance before the Tribunal, filed their respective pleadings. Learned Tribunal framed the issues. After appraisal of the evidence, learned Tribunal, vide award dated 07.02.2000 passed in MACT case No.79 of 11.11.1998, granted a sum of Rs.1,82,560/- as compensation along with interest @ 12% per annum from the date of filing of petition till its realization and held all

the respondents jointly and severally liable for the payment of determined amount of compensation, to the claimants. The compensation of Rs.1,82,560/- awarded by the Tribunal is detailed hereunder:-

Monthly income of the deceased	Rs.2000/-
Deduction for personal expenses	1/3rd
Multiplier	11
Loss of dependency	Rs.1,75,560/-
Funeral expenses	Rs.2000/-
Loss of consortium	Rs.5000/-

3. Being dissatisfied with the amount of compensation granted in the impugned award, the claimants have preferred the above captioned appeal.

4. Learned counsel for the appellants/claimants seeks an enhancement of the awarded amount, arguing that 25% increase should be added to the deceased's monthly income to account for future prospects, given the age and occupation of the deceased as a tailor master and aged 47 years at the time of his death. Learned Counsel further contends that a multiplier of 13 should be applied in place of 11, and that the deduction for the deceased's personal expenses should be 1/4 in place of 1/3. Additionally, learned counsel challenges the adequacy of the compensation granted under the conventional heads, stating that it does not conform to the established judicial precedents laid down by Hon'ble the Supreme Court in '**Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others' (2018) 18 SCC 130** and '**National Insurance Company Limited vs. Pranay Sethi and others' (2017) 16 SCC 680.** Accordingly, a

prayer is made for allowing the appeal.

5. On the other hand, learned counsel for the Insurance Company, could not refute that compensation needs to be reassessed, in the light of ratio of **Pranay Sethi and others** case (supra) and followed in other judicial decisions. Learned counsel also acknowledges that compensation under the conventional heads is not in line with the observations made in **Magma General Insurance Company Limited's** case (supra) and **Pranay Sethi and others'** case (supra). However, prayed for a reduction in the rate of interest granted by the learned Tribunal, stating that it was on the higher side.

6. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

7. There is no dispute that deceased was aged 47 years at the time of his death, occurred in an accident, caused by respondent No 1, while driving the offending vehicle in a rash and negligent manner. The dependency of claimants upon the deceased is also not in dispute. The determination of the deceased's monthly income at Rs.2000/- by the learned Tribunal based on minimum wages, could not be faulted by the claimants, who failed to provide any other evidence to establish that deceased was earning more than Rs.2000/- per month. Given the number of dependents upon the deceased are five, the deduction of 1/3rd from the income of the deceased towards his self-maintenance and expenses is certainly not in consonance with the ratio of judgment in **Pranay Sethi and others** case (supra) and **Sarla Verma Vs. Delhi Transport Corporation 2009(3) RCR (Civil) 77**, wherein it is observed that when dependent's family members are

between 4 to 6, 1/4th deduction from the income of deceased is to be made on self-expenses of the deceased.

8. The learned Tribunal also erred in applying multiplier of 11, after taking the age of deceased, 47 years. The table given in **Sarla Verma's** case (*supra)* provides for multiplier of 13, for the persons falling in the age group of 46-50. So in this case, keeping in view the age of deceased as 47 years at the time of his death, multiplier of 13 needs to be adopted.

9. However, the grant of compensation on account of loss of spousal and parental consortium, loss of estate and funeral charges as granted by the Tribunal is not as per the legal proposition of law expounded by Hon'ble the Supreme Court of India in **Pranay Sethi and others'** case (supra). Accordingly, it is required to be re-determined.

10. In view of the aforesaid discussion, the award passed by the Tribunal is modified and claimants/appellants are held entitled to the amount of compensation as re-determined hereinbelow:-

Sr. No.	Heads	Amount
1.	Annual Income (Rs.2000/- per month x 12)	Rs.24,000/-
2.	Future prospects @ 25% (Rs.24,000/- + Rs.6,000/-)	Rs.30,000/-
3.	Multiplier of 13 on total income (Rs.30,000/- x 13)	Rs.3,90,000/-
4.	Loss of dependency after 1/4th deduction for personal expenses (Rs.390000/- - Rs.97,500/-)	Rs.2,92,500/-
5.	Loss of consortium (filial) (48,000/- x 5)	Rs.2,40,000/-
6.	Funeral expenses	Rs.18,000/-
7.	Loss of estate	Rs.18,000/-
8.	Total Compensation	Rs.5,68,500/-

9.	Amount awarded by the Tribunal	Rs.1,82,560/-
10.	**Enhanced amount of compensation**	**Rs.3,85,940/- (rounded off to Rs.3,86,000/-**

11. The respondent No.3-Insurance company, is hereby directed to pay the claimants-appellants an enhanced amount of compensation i.e. Rs.3,86,000/- (Rupees three lakh eighty six thousand only) awarded hereinabove, over and above, the amount awarded by the Tribunal, with interest at the rate of 6% per annum from the date of filing of the claim petition till its realization, and amount assessed above be deposited within a period of two months from the date of receipt of certified copy of this judgment, with the Tribunal. The remaining conditions of disbursal of the amount as given by the Tribunal shall remain unaltered. Needless to mention that the amount, if any, already deposited by the insurance company shall be adjusted.

12. No other point was addressed or raised.

13. The appeal stands allowed in the aforesaid terms. No order as to costs.

14. Pending miscellaneous application(s), if any, is/are disposed of accordingly.

AUGUST 12, 2024 **(RITU TAGORE)**
d.gulati **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No