IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2660-2023(O&M)
Date of Decision: August 01, 2024

Iffco Tokio General Insurance Company

...Appellant

VERSUS

Manpreet Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sanjeev Kodan, Advocate
for the appellant.

Mr.R.G.S.Saini, Advocate
for respondents No.1 to 4.

Mr.Rajesh Kumar Bhagal, Advocate for
Mr.Shailender Sharma, Advocate
for respondent No.5.

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ARCHANA PURI, J.

The present appeal has been filed by the insurance company, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Charanjit Singh, in a motor vehicular accident.

So far as, the factum and manner of taking place of the accident as well as the liability, fastened upon the insurance company and other is concerned, the same, as such, has not been disputed. The driver and owner have not filed any appeal. Even though, the insurance company has filed the appeal, but it has assailed the Award, only qua quantum of compensation.

It is categoric claim of the claimants that Charanjit Singh was 26 years old and he had died in an accident, which had taken place on 07.11.2016, on account of rash and negligent driving of car bearing registration No.HR-26AG-7899. It is their claim that deceased was working as Head Munshi in Kamboj Road Carriers and was drawing salary of Rs.50,000/- per month and besides the same, he was indulging in milk dairy business.

To substantiate the vocation of the deceased, besides father of the deceased, namely, CW-1 Surinder Singh, stepping into witness box as CW-1, various other witness, CW-2 Jaspreet Singh, CW-3 Jasvir Singh and CW-4 Hardit Singh, have been examined before the Tribunal. Various documents, relating to the source of livelihood of the deceased have also been proved.

Appraising such evidence, learned Tribunal concluded about the deceased to be working as Head Munshi with Kamboj Road Carriers and assessed his earnings as Rs.18,000/- per month from this source. Besides the same, on the basis of the certificate, issued by the Director, Dairy Development Department, Punjab, in the name of the deceased, which is Ex.C15, it was also concluded that deceased was indulging in business of sale of milk and was earning Rs.10,000/-. Thus, from the aforesaid sources, the earnings of the deceased were taken as Rs.28,000/- per month. Taking it be to so, after deducting 1/3rd, on the count of 'personal expenses' and making addition of 40%, on the count of 'future prospects' and also, while assessing the compensation, under the conventional heads, the compensation, worked upon by learned Tribunal, in a tabular form, is hereby given:-

1.	Income of deceased	Rs.28,000/- per month
2.	Income after adding Future Prospects 40%	Rs.28,000/-+Rs.11,200/- =Rs.39,200/-
3.	Income after deduction of 1/3rd as personal living expenses	Rs.39,200/- – Rs.13,066.66/- =Rs.26,133.34 per month
4.	Compensation after applying multiplier of '17'	Rs.26,133.34 x 12 x 17 =Rs.53,31,201.26/-
5.	Compensation for loss of estate	Rs.15,000/-
6.	Compensation for loss of consortium	Rs.40,000/-
7.	For Funeral Expenses	Rs.15,000/-
	Total	Rs.54,01,201.36/-

Considering the compensation awarded to be on higher side, the insurance company has filed the present appeal. Now, it is assiduously submitted by learned counsel for the insurance company that both the sources of earnings of the deceased, as such, do not stand established from the evidence, brought on record, but still the earnings have been taken as Rs.28,000/- per month, i.e. Rs.18,000 + Rs.10,000/- from both the sources and this needs to be scaled down.

On the contrary, learned counsel for respondents No.1 to 4-claimants has vehemently refuted the claim of the insurance company. It is submitted that the vocation followed by the deceased being Head Munshi in Kamboj Road Carriers, stands amply established. Even, from the vouchers proved in evidence, it stands established that his earnings were Rs.18,000/- per month. Besides the same, on the basis of certificate Ex.C15, issued by Director, Dairy Development Department, Punjab, it stands established that the deceased was indulging in the business of sale of milk and therefore, the amount of earnings taken as Rs.10,000/- from this source, is the modest estimate and thus, the compensation, worked upon, on the basis thereof, cannot be said to be on higher side.

So far as, the age of the deceased is concerned, from the educational certificates having proved in evidence, it stands established that the date of birth of Charanjit Singh was 01.06.1989. It has been repeatedly mentioned in the educational certificates and even, the same stands reflected in the Aadhaar Card Ex.C2, as well as driving licence Ex.C11. Taking it to be so, on the date of accident i.e. on 07.11.2016, the deceased was little more 26 years of age. CW-1 Surinder Singh, father of the deceased, in his affidavit Ex.CW1/A, has stated about deceased Charanjit Singh to be working as Head Munshi and running milk dairy. Likewise, even CW-2 Jaspreet Singh, who was working in the Kamboj Road Carriers, in his affidavit, has also stated about the deceased to be working as Head Munshi, in their concern. Even, CW-4 Hardit Singh, owner of Kamboj Road Carriers, in his affidavit Ex.CW4/A, has categorically deposed about the deceased to be working as Head Munshi in their concern and he was earnings Rs.18,000/- per month. His last drawn salary certificate is dated 05.11.2016, which is Ex.C16. The vouchers prepared, with regard to the release of salary, is Ex.C17.

Learned counsel for the insurance company has assiduously submitted that no reliance can be placed upon Ex.C16. However, it is not so. It is always to be borne in mind that Motor Vehicle Act is a benevolent piece of legislation and it is a summary proceedings. No strict rules of evidence, apply to the claim petitions. This certificate has been issued Hardit Singh, owner of Kamboj Road Carriers, who has himself proved the same, when he stepped in the witness box as CW-4. Not only this, even salary release vouchers have been proved as Ex.C17 and the same bears the signatures of Charanjit Singh, with regard to the salary paid, in the month of October 2016. These have been duly signed by Hardit Singh and he has stepped into witness box, as observed aforesaid. Nothing material elicited out from his cross-examination, with regard to this extent of earnings. Even though, various income tax returns of Hardit Singh have been proved, during the course of evidence, but however, those returns, do not specifically reflect about the earnings of the deceased.

Considering the aforesaid evidence, learned Tribunal had appropriately concluded about the deceased to be Head Munshi in Kamboj Road Carriers and his earnings to be Rs.18,000/- per month.

However, so far as, indulgence of the deceased in business of sale of milk, apart from the testimony of father of deceased, reliance has been placed on the certificate Ex.C15, which has been issued by the Director, Dairy Development Department, Punjab. Perusal of the same reveals that deceased Charanjit Singh had done Dairy Training for the period from 16.04.2012 to 30.04.2012. Besides this certificate, there is nothing satisfactory is coming on record, to establish about the indulgence of the deceased in dairy farming. There is no evidence, as such, coming on record, with regard to the sale of milk. Simply on the score of certificate Ex.C15, indulgence of the deceased in sale of milk, cannot be concluded, more particularly, considering his educational input. Ex.C13 is the matriculation certificate, Ex.C14 is the Semester-6 result of B.Sc. Information Technology of the deceased and it was of 2016. Meaning thereby, soon before his death, the deceased was indulging in studies and being so, in the absence of any further evidence, coming on record, sole reliance cannot be placed upon this certificate Ex.C16, to conclude about the deceased to be indulging in the sale of milk. As such, this source of livelihood, as such, does not stand established and the finding, so recorded by learned Tribunal, on this account, stands reversed.

In the light of the aforesaid discussion, the compensation worked upon by learned Tribunal, as detailed aforesaid, do call for re-computation.

Now, the earnings of deceased Charanjit Singh are taken as Rs.18,000/- per month, in the capacity of being Head Munshi in Kamboj Road Carriers. Considering the age of the deceased to be 26 years, as per ***Pranay Sethi's case***, addition of 40%, ought to be made, on the count of 'future prospects'. Thus, the income of the deceased is worked upon as Rs.18000+7200(40%)=**Rs.25,200/-**.

Even though, the claim petition has been filed by the widow, minor daughter as well as parents of the deceased, but however, from the evidence adduced, it stands established that father of the deceased, namely, Surinder Singh-appellant-claimant No.4, is a Police Officer and his earnings are Rs.75,000/- per month. In the given circumstances, obviously, the father of the deceased was not financially dependent upon his deceased son. But however, on the count of 'loss of consortium', he is entitled to be compensated.

Considering it to be so, the number of dependents are taken as three. As per ***Sarla Verma's case***, the deduction, ought to be made, to the

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extent of 1/3rd, on the count of 'personal expenses'. Thus, after deducting the same, the loss of dependency is worked upon as Rs.25200-8400(1/3rd)=Rs.16,800/-, annual whereof, comes to be **Rs.2,01,600/-**.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**17**', and thus, by applying the same, the loss of dependency, works out to be Rs.201600x17=**Rs.34,27,200/-**.

Besides the same, as per ***Pranay Sethi's case (supra)***, under the conventional heads, the appellants-claimants are entitled to compensation on the counts of 'loss of consortium', 'loss of estate' and 'funeral expenses'. 'funeral expenses'. As per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, all the claimants/dependents, are entitled to compensation, on the count of 'loss of consortium'.

As per ***Pranay Sethi's case (supra)***, the compensation, on the count of 'loss of consortium', at present, works out to be, 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.

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

Loss of dependency	**:**	**Rs.34,27,200/-**
Loss of consortium	**:**	**Rs.1,93,600/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.36,57,100/-**

Considering the compensation awarded by learned Tribunal to be Rs.54,01,201.36, as per the re-determination of the compensation aforesaid, the same do call for reduction, which comes to be Rs.54,01,201.36-36,57,100=Rs.17,44,101.36, which is rounded off as Rs.17,44,101/-.

Considering the receding rate of interest, while taking into consideration the date of death of Charanjit Singh, the claimants shall be entitled to interest @ 6% per annum, throughout.

However, it is made clear that out of the compensation, as now worked upon, claimant No.4-Surinder Singh, is held entitled to compensation to the extent of Rs.48,400/-.

The insurance company would be at liberty to initiate recovery process to make the recovery proportionately from the share of each one of the claimants No.1 to 3.

With the above observations, the present appeal stands allowed.

August 01, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned Yes
Whether reportable Yes/No