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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-122-2004 (O&M)
Date of Decision: 28.10.2024

Neelam Rani and others
Vs.
..... Appellants

Rajasthan State Board Transport Corporation Sri Ganganagar and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Vinod K. Kataria, Advocate for the appellants.

None for the respondents.

SANJAY VASHISTH, J.(Oral)

1. The present appeal has been filed by the appellants/claimants (hereinafter referred as 'claimant') in MACT Case No. 36 of 27.07.2002, for modification of award dated 20.09.2003, passed by Ld. Motor Accidents Claims Tribunal, Faridkot (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of deceased – 'Godha Ram'.
2. Briefly stated facts of the case are that on 23.01.2000, deceased Godha Ram was driving a truck (PB04-G-9938) owned by Subash Chander, loaded with rice and was going to Gujarat to deliver the same via State of Rajasthan accompanied by conductor Mohinder Pal. When the said truck reached in the area of Police Station Ghamurawali, District Sri Ganga Nagar (Rajasthan), near bus stand Majhuwasa bus bearing No. RJ-10P-0617 belonging to the respondent No.1 and driven by its driver-Vinod Kumar, who was employed with respondent No.1, came from opposite direction. There



was head-on collision between the truck and the bus. Both, Vinod Kumar (Bus Driver) and Godha Ram (truck driver) died in the accident and the passengers of bus and conductor of truck Mohinder Pal sustained injuries. FIR was lodged by the Respondent's Employees Union at Police Station Ghamoorwali.

3. Appellants-Neelam Rani (widow of the deceased), their three minor children-Kiran Bala,Veerpal and Bal Krishan , filed a claim petition under Section 166 of the motor vehicle Act, 1988 for seeking compensation on account of death of 'Godha Ram' 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 held that the accident had occurred due to the rash driving of both the drivers(contributory negligence) and had assessed monthly income of the deceased as Rs.3,000/-; age of deceased as 47 years according to Post Mortem Report , deducted 1/3rd on account of his personal expenses, applied the multiplier of 13, and accordingly, calculated total compensation to the claimants to the tune of Rs.3,12,000/-. Since, the accident occurred due to the contributory negligence of Godha Ram(deceased), the claimants were held entitled to 50% of compensation i.e Rs 1,56,000/- on account of death of deceased. An additional amount of Rs.2,000/- was awarded as funeral expenses, thereby making total compensation amount awarded to claimants Rs 1,58,000/-, payable by respondents @9% per annum from the date of filing of the petition till its realization.



Appellants/ Claimants have filed the present appeal, seeking enhancement of the compensation over and above the amount awarded by the Ld. Tribunal.

4. While addressing arguments, Counsel for the appellants submits that the Ld. Tribunal has erred in determining the monthly salary of the deceased –Godha Ram, as he was working as Truck driver and was earning Rs.4,200/- per month; failed to enhance the income on account of future prospects ; has deducted personal expenses on the higher side and not granted compensation for loss of consortium and loss of estate e.t.c.

5. Since, no one has appeared on behalf of the respondents this Court has to examine the issue of adequate /just amount of compensation payable to the claimants.

6. I have 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.

7. To prove the income of deceased, no documentary evidence has been produced by claimants. The employer of deceased Subhash Chander AW2 has stated in his affidavit that deceased was holding a valid Driving License issued by the D.T.O. Faridkot, and was employed as truck driver @Rs 100/day along with outstation compensatory allowance @ Rs.100/day. However, no documentary proof of the salary was available with the employer.

During the proceedings, the counsel for claimants produced the copy of Driving license issued by D.T.O, Faridkot. Even though there is no definite evidence regarding income of the deceased on the record but admittedly deceased was holding a valid driving license to drive heavy vehicle also. Thus, in a such a situation, this court holds that deceased was working as a truck driver and earning Rs.4,000/-per month including outstation compensatory allowance.

8. From the evidence on record, it stands established that the deceased was aged 47 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. (25% of Rs.4,000/-)=Rs.5,000/- per month. Out of the same, keeping in view the number of dependents i.e. widow and three children 1/4th is to be deducted on account of 'personal expenses', which is to the extent of Rs.1250/- and the residue amount works out to be Rs.3750 /- per month and



annually it comes to be Rs.45,000 /-.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 '13 and after, so applying this multiplier, the loss of dependency comes to be (Rs. 45,000/- x 13) = Rs.5,85,000

This Court concurs with the observation of Ld. Tribunal that the accident was head on collision on a foggy day between the truck and bus . Both drivers were negligent in driving their respective vehicles, resulting in the accident due to the contributory negligence of both deceased drivers. Therefore, due to the contributory negligence of the deceased Godha Ram ,the claimants are entitled to 50% of compensation amount to Rs.2,92,500/- (50% of Rs.5,85,000).

9. 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**.

10. 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/- each to all of the claimants in the instant appeal.



11. 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.3,000/- p.m.	Rs.4,000/- p.m.
2.	Future Prospects	nil	Rs.1,000 (25% of Rs.4,000 /-)
3.	Deduction towards personal expenses	Rs.1,000(1/3 rd of Rs.3,000/-)	Rs.1250/-(1/4 th of Rs.4000 +Rs.1000)
4.	Total Annual Income	Rs.24,000/-	Rs.45,000/- (Rs.3,750/- x 12)
5.	Multiplier	13	13
6.	Loss of Dependency	Rs.1,56,000 (50%of Rs.3,12,000/- on account of contributory negligence)	Rs.2,92,500/- (50%of Rs.5,85,000/- on account of contributory negligence)
7.	Funeral Expenses	Rs.2,000/-	Rs.25,000/-
8.	Loss of Estate	nil	Rs.20,000/-
9.	Loss of Spousal Consortium	nil	Rs. 48,400 /-
10.	Loss of Parental Consortium	nil	Rs. 1,45,200/-(Rs. 48,400 X 3)
11.	Loss of filial Consortium	nil	nil
12.	Total Compensation to be Paid	Rs. 1,58,000/-	Rs. 5,31,100/-



Thus, the claimants are entitled for a total compensation amount of Rs.5,31,100/- as against Rs.1,58,000/-.

Accordingly, keeping in mind the aims and objects of the beneficial legislation i.e. to provide adequate relief to the injured /victim or the dependant family members, total compensation amount to which appellant/claimants are held entitled is **Rs.5,31,100/- (Rupees Five lacs Thirty one thousand and one hundred).**

12. The awarded compensation shall be paid to the claimants 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 claimants, with the same terms, which have been mentioned by Ld.Tribunal.

It is further clarified that in case compensation amount is not paid within aforementioned stipulated period, rate of interest would be 9% per annum from the date of filing of claim petition till its actual realization.

And, in case any further delay is caused beyond six months from today, rate of interest would be 12% per annum from the date of filing of claim petition till its actual realization.

13. 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.

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

14. Pending miscellaneous application(s), if any shall also stand disposed of.

(SANJAY VASHISTH)
JUDGE

October 28, 2024
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1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No