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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2381-2005(O&M)
Date of Decision:30.09.2024

Karamjit Kaur and others

. . . . APPELLANTS

Vs.

Punjab Roadways and others

. . . . RESPONDENTS

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CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

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Present: Mr. Shrey Sachdeva, Advocate and
Ms. Shruti Singla, Advocate for the appellants.

Mr. D.S. Lamba, DAG, Punjab.

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SANJAY VASHISTH, J.

1. The present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as 'claimants') in MACT Case No. 87 of 18.12.2002, for modification of award dated 11.01.2005, passed by Ld. Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as 'Ld. Tribunal') by way of enhancement of amount of compensation, on account of death of deceased –Mohan Singh.

2. Briefly stated facts of the case are that on 21.11.2002, Mohan Singh (deceased) was travelling from Patiala to Nabha on his motorcycle bearing registrationPB-11-8301.At about 2:45 PM, when he reached near Rohti bridge, a bus bearing registration No.PB-12A-8753,driven by respondent no.3 in a rash and negligent manner,hit against his motorcycle.As a result of which he fell down and sustained multiple grievous injuries and ultimately succumbed to them on his way to the hospital.

Resultantly,FIR No. 172 dated 21.11.2002 under Section 279/304-A IPC at Police station Sadar Nabha was also registered.

3. Appellants-Karamjit Kaur (widow of the deceased), their two minor children-Surinder and Harinder and Rattan Kaur (mother of the deceased), filed a claim petition under Section 166 of the motor vehicle Act, 1988 for seeking compensation on account of death of 'Mohan Singh' 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 assessed the monthly income of the deceased as Rs.3,000/-, deducted 1/3rd on account of his personal expenses, applied the multiplier of 15, and accordingly, awarded total compensation to the claimant to the tune of Rs.3,60,000/- payable by respondents severally and jointly with interest @6% per annum from the date of filing of the petition till its realization.

Appellants/Claimants have filed the present petition, 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 –Mohan Singh, as he was working as Government Contractor and was earning Rs.15,000/-per month; failed to enhance the income on account of future prospects ; has deducted personal expenses on the higher side and not granted compensation on account of funeral expenses, loss of consortium and loss of estate e.t.c.

5. On the other hand, Ld. Counsel for Respondent No.3 – Insurance Company, submits that the Ld. Tribunal has rightly determined the monthly salary of the deceased and there is no need to enhance the amount of compensation as awarded by the Ld. Tribunal. Thus, appeal is prayed to be dismissed.

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,claimants have brought on record the documents (Ex A-1 to Ex A-5), relating to Income Tax Returns filed by the deceased and its details are as under :

Acknowledgement of Income Tax Return	Gross total Income
(i) F.Y 1995-96 /A.Y 1996-1997	Rs. 52,710/-
(ii)F.Y 1996-97 /A.Y 1997-1998	Rs. 54,220/-
(iii) F.Y 1997-98 /A.Y 1998-1999	Rs. 26,810/-
(iv) F.Y 1998-99 /A.Y 1999-2000	Rs. 42790/-

However, the accident occurred on 21.11.2002, and claimants were required to produce the Income Tax Returns for past three Financial Years i.e,1999-2000, 2000-2001 and 2001-2002. Since, there is no definite and admissible proof of income, this Court is of the view that the criteria of Annual Income can be assessed by considering the Average Annual Income accruing through all the four aforementioned Income Tax Returns,which comes out as Rs.3,677.7/- {[(5,2710+54,220+26,810+42,790)/4]/12}. So the income of deceased is taken **as Rs.3600/-(rounded off) per month**.

8. From the evidence on record, it stands established that the deceased was aged 41 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.3,600+900 (25% of Rs.3,600/-)=Rs.4,500/- per month. Out of the same, keeping in view the number of dependents i.e. widow, mother and two children 1/4th is to be deducted on account of 'personal expenses', which is to the extent of Rs.1,125/- and the residue amount works out to be Rs.3,375/- per month and annually it comes to be Rs.40,500/-.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 '14' and after, so applying this multiplier, the loss of dependency comes to be Rs. 40,500/- x 14=Rs.5,67,000 /-.

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.3,600/- p.m.
2.	Future Prospects	nil	Rs.900 (25% of Rs.3,600/-)
3.	Deduction towards personal expenses	Rs.1,000(1/3rd of Rs.3,000/-)	Rs.1125/-(1/4th of Rs.3,600+Rs.900)
4.	Total Annual Income	Rs.24,000/-	Rs.40,500/- (Rs.4,500/ - Rs.1125x 12)
5.	Multiplier	15	14
6.	Loss of Dependency	Rs.3,60,000/-	Rs.5,67,000/-
7.	Funeral Expenses	nil	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. 96,800/-(Rs. 48,400 X 2)
11.	Loss of filial Consortium	nil	Rs. 48,400/-
12.	Total Compensation to be Paid	Rs.3,60,000/-	**Rs.8,05,600/-**

Thus, the claimants are entitled for a total compensation amount of Rs.8,05,600/- as against Rs.3,60,000/-.

12. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 6% per annum from the date of filing of the claim petition till its payment and same should be enhanced to 12% by this Court. However, learned counsel appearing on behalf of respondent No.3 - Insurance Co., submits that the rate of interest should not be more than 6% per annum.

13. Thus, by taking into consideration the totality of circumstances and the rate of interest uniformly made applicable in other cases also, this Court finds that the rate of interest at which the compensation amount should be paid to the complainant @7.5 % per annum.

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.8,05,600/-(Rupees Eight lacs Five thousand and Six hundred only**).

This amount shall be paid to the claimants proportionately within a period of three months from the date of this order, with interest @ 7.5 % per annum from the date of filing of the claim petition till actual realization of the amount of compensation, with the same terms, which have been mentioned by Ld. Tribunal.

It is further clarified that in case compensation amount due to be paid as on date is not paid within aforementioned stipulated period, same shall be payable to the claimants along with applicable rate of interest @9%p.a.

And, in case any further delay is caused beyond six months from today, compensation amount payable as on date would be paid to the claimants along with applicable rate of interest @12%p.a from the date of filing claim application till its realization.

14. 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, present appeal is allowed with the terms indicated here-above.

(SANJAY VASHISTH)
JUDGE

30.09. 2024
Rashmi

1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? ***Yes/No***