IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2548-2005 (O&M)
Date of Decision: May 03, 2024

Smt.Asha Devi and another

...Appellants

VERSUS

Anuj and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Jagdish Manchanda, Advocate
for the appellants.

Mr.G.S.Ahluwalia, Advocate
for respondent No.3-insurance company.

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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 Motor Accident Claims Tribunal, on account of death of Lance Naik Pappu Singh, in a motor vehicular accident, which took place on 14.10.2000.

On appraisal of the evidence, adduced on record, learned Tribunal had concluded about deceased to be working in Indian Army and was drawing salary of Rs.4827/- per month. Copy of salary certificate is Ex.P1, salary statement is Ex.P2 and copy of service record is Ex.P3. After deducting 1/3rd income, on account of personal expenses, which is to the extent of Rs.1609/-, the residue work out came to be Rs.3218/-, annual whereof is Rs.38,616/-. Considering the age of the deceased to be 23 years, multiplier of ‘16’ was applied and total compensation was worked upon as Rs.6,17,856/-.

Being dis-satisfied with the extent of compensation, so granted, the appellants-claimants have filed the present appeal, seeking enhancement.

So far as, fact of the accident, manner of taking place of the same and the liability, so fastened upon the respondents, is concerned, it is pertinent to mention that none of the respondents, who were made liable, have filed any appeal, to assail the findings on the said aspect. As such, this aspect, warrants no further scrutiny.

While making reference to the evidence adduced before Tribunal, it has been submitted by learned counsel for the appellants that compensation has been worked upon, miserably on lower side, which calls for extensive enhancement, on various counts, to which amiss has been given by learned Tribunal. Furthermore, it is also submitted that in fact deduction, ought not to have been made to the extent of 1/3rd, while considering various facilities extended to the deceased, during his lifetime. Also, it is submitted that as per prevalent law, on the count of ‘future prospects’, no addition, as such has been made by learned Tribunal. Thus, a prayer has been made for extensive enhancement of the compensation.

On the other hand, learned counsel for the insurance company has resisted the claim of the appellants. He submits that the compensation worked upon by learned Tribunal is just and reasonable. Thus, a prayer has been made for dismissal of the appeal.

However, considering the manner of ‘work on’ of the compensation by learned Tribunal, definitely, as per prevalent law, it calls for enhancement.

So far as, the vocation of the deceased is concerned, the same, as such, is not disputed by learned counsel for the insurance company. From the service record produced by PW-1 Tarsem Singh, it is evident that deceased was drawing salary of Rs.4827/- per month. Also, from the service record, proved in evidence, it stands established that the date of birth of Pappu Singh was 10.07.1977. As such, on the date of accident, he was approximately 23 years old. Keeping in view the age, the further calculations are required to be made.

Though, it is submitted by learned counsel for the appellants that in view of testimony of PW-1 Tarsem Singh, it stands established that the deceased, during his lifetime, was getting free ration, uniform, medical facilities etc., and also residential accommodation and therefore, no deduction, on the count of personal expenses, ought to be made, but however, the aforesaid submission is not tenable. Very true, the deceased being Lance Naik in the defence forces, is bound to be enjoying allowances, even then, some amount must be spent by him for his personal needs, which ought to be taken into consideration. Considering the same, the deduction i.e. Rs.1609/-, as done by learned Tribunal, is just and reasonable and the residue earnings work out to be Rs.3218/-.

To the aforesaid amount, keeping in view the age of the deceased, as per guidelines laid down in ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 50% ought to be made, on the count of 'future prospects'. Thus, the income of the deceased is worked upon as Rs.3218+Rs.1609(50%)=**Rs.4827/-**, annual whereof, comes to be Rs.57,924/-.

However, learned Tribunal had erroneously applied the multiplier of '16'. Considering the age of the deceased to be 23 years, as per guidelines laid down in ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77,*** the appropriate and suitable multiplier, to be applied is '**18**' and while applying the same, the loss of dependency, works out to be Rs.57924x18= **Rs.10,42,632/-**.

Besides the aforesaid, under the conventional heads also,, the appellants, who are widow and daughter of the deceased, are respectively entitled to the amount of Rs.48,400/- each, on the count of 'spousal' and 'filial consortium'. Besides the same, under the counts of 'loss of estate' and 'funeral expenses', as per ***Pranay Sethi's case (supra)***, at present, the compensation payable is **Rs.18,150/-** on each count.

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

Loss of dependency	**:**	**Rs.10,42,632/-**
Loss of consortium	**:**	**Rs.96,800/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.11,75,732/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.11,75,732-6,17,856=Rs.5,57,876/-**. On the enhanced amount of the compensation i.e. **Rs.5,57,876/-**, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The compensation amount already awarded shall be apportioned as ordered by learned Tribunal. However, out of the enhanced amount, as now awarded, appellant-claimant No.1 is entitled to Rs.3 lakh and appellant-claimant No.2, shall be entitled to residue amount of Rs.2,57,876/-. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid terms, the present appeal stands allowed.

May 03, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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