



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-3243-2005 (O&M)
Date of Decision: July 12, 2024

Pushpa Devi and others
...Appellants

VERSUS

Jaswinder Singh and another
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Vipul Sharma, Advocate for
Mr.Ashwani Arora, Advocate
for the appellants.

Mr.Amandeep Singh Gill, Advocate
for respondent No.2.

Mr.Neeraj Khanna, Advocate for
Mr.Ravinder Arora, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation, awarded by learned Motor Accident Claims Tribunal, on account of death of Shukar Singh, in a motor vehicular accident, which took place on 22.06.2001.

Initially, five claim petitions, arising from the same accident were filed and the same disposed off together, vide common Award dated 01.04.2005. Even, in the same, claim petition MACT No.117 of 2001, vis-



a-vis, death of Shukar Singh was also decided. On appraisal of evidence brought on record, qua death of Shukar Singh, an amount of Rs.2,50,000/- was awarded by learned Tribunal.

Dissatisfied with the extent of compensation, so awarded, the appellants-claimants have filed the present appeal.

The facts germane, to be noticed, are as follows:-

That, on 22.06.2001, at about 11.30 p.m., Shukar Singh along with various other persons, qua whom, the claim petitions were filed, was travelling in bus bearing No.DL-IPA-4751. The said bus was proceeding from Jammu to Chandigarh. When it reached on the bridge, about 36 kms. short from Pathankot, on Jammu-Panthankot Highway, on account of high speed, it went out of control and after breaking the railing, it rolled down into 40 feet deep Nullah, as a result whereof, the occupants of the said received multiple injuries and they were removed to Hospital. Shukar Singh, besides two other persons, succumbed to the injuries.

Be it noted that the respondents, who were made liable to pay the compensation had not filed any appeal to assail the findings, with regard to factum of the accident and manner thereof, as well as the liability, fastened upon them. Considering the same, there is no necessity to dwell further on the aforesaid aspects.

The present appeal has only been filed for seeking enhancement of the compensation, qua death of Shukar Singh.

So far as, Shukar Singh deceased is concerned, it was pleaded case that he was 58 years old and was working as Record Lifter in Panjab University and was earning Rs.7196/- per month. The salary slip of the



deceased is Ex.P1, which reveals his income to be Rs.7221/- per month. After making deduction of Rs.1293/-, the net salary was Rs.5928/- per month. Taking his income to be about Rs.6000/-, deduction, to the extent of 1/3rd was made and loss of dependency was taken as Rs.4000/-, the annual whereof, was worked upon as Rs.48,000/-. However, considering the recitals of the date of birth in the service book of Shukar Singh, copy whereof is Ex.R4, it was concluded that his date of birth is 03.06.1939 and considering it to be so, Shukar Singh was concluded to be 62 years old. Considering his age, the multiplier applied was '5' and compensation came to be Rs.2,40,000/-. Besides the same, another amount of Rs.10,000/- was granted, on account of 'funeral expenses'. Thus, in total, compensation awarded was Rs.2,50,000/-. Out of the awarded amount, Rs.1,50,000/- was ordered to be disbursed to appellant-claimant No.1-Pushpa and residue was ordered to be disbursed equally to appellants-claimants No.2 to 4.

The compensation, as worked upon aforesaid, definitely calls for re-determination.

So far as, age of the deceased is concerned, the copy of service book has been proved as Ex.R4. It contains the recitals of date of birth of deceased, which was mentioned as 03.06.1939. Considering the same, learned Tribunal had correctly assessed the age of the deceased to be 62 years. Considering him to be so, it has been also correctly observed by learned Tribunal that deceased was working as Record Lifter in Panjab University and his earnings were Rs.7221/- per month. However, deduction made out of the salary, so worked upon is erroneous. As observed aforesaid, the deceased was 62 years old. In the given circumstances, in view of the



specific recitals of date of birth, depicted in the service book, the deceased was 62 years old and it being so, there is nothing, as such, coming on record that in what manner, his services were extended beyond the age of retirement. Anyhow, even if, in view of the record produced, he is taken to be in service, then also, he was on the verge of superannuation. Thus, for all intents and purposes, the deceased is to be considered as having superannuated and that being so, the amount of pension, ought to be taken in to consideration, which would be half of the last drawn salary and it being so, the earnings comes to be Rs.3610/- per month, annual whereof is Rs.43320/-.

Erroneously, learned Tribunal had made deduction of 1/3rd, on the count of 'personal expenses' of the deceased. However, considering the number of dependents to be four in number, while taking guidelines from *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, it has to be 1/4th and after deducting the same, the dependency is worked upon as $\text{Rs.43320} - 10830(1/3\text{rd}) = \text{Rs.32490/-}$ per annum.

Learned Tribunal had applied the multiplier of '5', but however, considering the age of the deceased to be 62 years, as per *Sarla Verma's case (supra)*, the appropriate and suitable multiplier, to be applied is '7' and while applying the same, the loss of dependency, works out to be $\text{Rs.32490} \times 7 = \text{Rs.2,27,430/-}$.

Besides the same, amounts are to be paid under the conventional heads, like, 'loss of consortium', 'loss of estate' and 'funeral expenses', as held in *Pranay Sethi's case (supra)*. As per '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others,*



2018 (18) SCC 130', whosoever are the dependents of the deceased/claimants, are entitled to 'parental', 'spousal' or 'filial' consortium, as required. Thus, the wife and children, are also entitled to 'spousal' and 'filial' compensation, on the count of 'loss of consortium, which shall be to the extent of Rs.48,400/-, for each of the claimants i.e. Rs.48400x4=**Rs.1,93,600/-**. On the similar pattern, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable to the claimants, at present, comes to be **Rs.18,150/-**, on each count.

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

Loss of dependency	:	Rs.2,27,430/-
Loss of consortium	:	Rs.1,93,600/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs..4,57,330/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.4,57,330-2,50,000=Rs.2,07,330/-**. On the enhanced amount of the compensation i.e. **Rs.2,07,330/-**, 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.1,17,330/- and appellants-claimants No.2 to 4, shall be entitled to an amount of Rs.30,000/- each. The residue terms of



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the Award, as ordered by learned Tribunal, shall remain the same.

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

July 12, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No