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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3388-2005
DECIDED ON: 18.09.2024

JAGSHYAM AND ANOTHER .....APPELLANTS

VERSUS

GURPREET SINGH AND OTHERS .....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Simpranpreet Singh, Advocate, for
Mr. Sandeep K. Sharma, Advocate,
for the appellants.

Ms. Simran, Advocate, for
Mr. Pardeep Goyal, Advocate,
for respondent No.3 – Insurance company.

SANJAY VASHISTH, J (ORAL)

1. The present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as 'claimants') in MACT Case No. 58 of 2003, dated 07.06.2003, for modification of award dated 05.03.2005, passed by Ld. Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of deceased – Rani.

2. Briefly stated facts of the case are that on 19.03.2003 at about 4:30 P.M. the appellant along with her wife (now deceased), their daughter and one Virender singh, nephew of Jagshyam were travelling by rickshaw to Rock garden. When they reached near Cricket Stadium,

Sector 10, Chandigarh, respondent No.1 came driving Maruti Zen car bearing registration No.CH-01-W-8119 from the side of Shanti Kunj at a very high speed, in a rash and negligent manner and struck his car in the rickshaw from behind as a result of which all the occupants of the rickshaw fell off and sustained injuries. All of them sustained multiple injuries and were taken to PGI in the car of a passer by unfortunately, Rani (deceased) was declared brought dead in the PGI.

Resultantly, FIR No.142 dated 19.03.2003 was also registered.

3. Claimants – husband and minor daughter of deceased, filed a claim petition under Section 166 and Section 140 of the Motor Vehicles Act, 1988 for seeking compensation of Rs.8,00,000/- on account of death of 'Rani' 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 age of the deceased as 27 years, her monthly income as Rs.3,000/-, deducted Rs.1,000/- on account of her personal expenses, applied the multiplier of 18, granted Rs.5,000/- as spousal consortium, Rs.2,000/- as funeral expenses and accordingly, awarded total compensation to the claimant to the tune of Rs.4,40,000 /- payable by respondents severally and jointly with interest @9% per annum from the date of filing of the petition i.e. 07.06.2003 till 30.09.2004.

4. Appellants/Petitioners/Claimant has filed the present appeal, seeking enhancement of the compensation over and above the amount awarded by the Ld. Tribunal.

5. While addressing arguments, Counsel for the appellants submits that the Ld. Tribunal has erred in determining the monthly salary of the deceased –Rani; failed to enhance the income on account of future prospects; has deducted personal expenses on the higher side and failed to grant any compensation on account of loss of estate, provided consortium only to the widower of the deceased and not to the minor daughter of the deceased.

6. 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 interfere in the amount of compensation awarded by the Ld. Tribunal. Thus, the present appeal was liable to be dismissed.

7. This Court has 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.

8. This Court is of the view that in the present case, deceased was a home maker and her income was assessed as Rs.3,000/-, which appears to be on the lower side. This Court in **FAO-5512-2018** titled as **Balwinder and others Versus Surajbhan and others,** decided on 09.08.2023, held that:-

> *"**9.** In the case in hand, deceased - Sunita was a homemaker. A homemaker shoulders a myriad of responsibilities that encompass a diverse range of tasks. From managing household chores to nurturing relationships and maintaining a harmonious living environment, their role is ceaseless and demanding Operating tirelessly around the clock, a homemaker's dedication is undeniable. Thus, the contribution of a homemaker to the intricate fabric of daily life is immeasurable and deserves profound acknowledgment and in no way can be equated to an unskilled laborer. Further, it is the homemaker whose affection and dedication towards her family transforms a house into a home. Thus, it is rightly said that a house without a woman is a body without a soul.*
>
> ***10.** Even in economic terms, according to the SBIs latest Ecowrap report released in March, 2023, total contribution of unpaid women to the economy is around Rs. 22.7 lakh crore (rural: Rs. 14.7 lakh crore and urban: Rs. 8.0 lakh crore) which is almost 7.5 per cent of India's GDP.*

*__11.__ Thus, this Court is of the view that **contribution of a homemaker is no less profound than the contribution of a skilled worker** and thus, assesses the income of the deceased as Rs. 6,202.75/- as per the minimum wages of a skilled worker (A) prevalent in the State of Haryana at the time of the death of the deceased."*

Thus, keeping in mind the date of accident and above other factual circumstances of the case, notional income of the deceased Rani as a home maker is assessed as Rs.5,000/- per month, which is even higher than the skilled worker at the relevant time. More for the reason that if the activities performed by any home maker are taken together, there would not be any doubt that the contribution is of a high order and same is invaluable, and much demanding than a skilled worker.

From the evidence on record, it stands established that the deceased was 27 years and as per Pranay Sethi's case (supra), addition of 40%, on the count of 'future prospects' has to be made and total amount of earnings comes to be Rs.5,000 + Rs.2,000 (40%) = Rs.7,000/- per month. Out of the same, keeping in view the number of dependents i.e. husband and daughter, 1/3rd is to be deducted on account of 'personal expenses', which is to the extent of Rs.2,333.33/- and the residue amount works out to be Rs.4666.67/- per month and annual income comes out to be Rs.56,000.04/-. 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 '17' and after, so applying this multiplier, the loss of dependency comes to be Rs. 56,000.04 x17 = Rs.9,52,000.68/-.

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**.

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 the claimants in the instant appeal (husband and daughter of deceased).

10. 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/-	Rs.5,000/-
2.	Future Prospects	Nil	Rs.2,000/-(40% of Rs7,000)
3.	Deduction towards personal expenses	Rs.1,000/-	Rs.2333.33/- (1/3 rd of Rs.5,000+Rs. 2,000)

4.	Total Annual Income	Rs.24,000/-	Rs.56,000.04/- (Rs. 4,666.67/- X12)
5.	Multiplier	18	17
6.	Loss of Dependency	Rs.4,32,000/-	Rs.9,52,000.68 /-
7.	Funeral Expenses	Rs.2,000/-	Rs.25,000/-
8.	Loss of Estate	Nil	Rs.20,000/-
9.	Loss of Spousal Consortium	Rs.5,000/-	Rs.48,400/-
10.	Loss of Parental Consortium	Nil	Rs.48,400/-
11.	Loss of filial Consortium	Nil	Nil
12.	Total Compensation to be Paid	Rs.4,40,000/- (Rs.4,39,000/- rounded off)	**Rs.10,93,800.63/-**

11. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 9% per annum from the date of filing of the claim petition till. However, learned counsel appearing on behalf of respondent No.3 – Insurance Co., submits that the rate of interest should not be over the awarded amount and therefore, it should not be more than 6% per annum.

12. Thus, keeping in view the aim of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellant (petitioner/claimant) is enhanced to **Rs.10,93,800.63/- (Rupees Ten Lacs Ninety Three Thousand and Eight Hundred only).** This amount is to be paid 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 the appellants (petitioner/claimant).

It is further clarified that in case compensation amount due to be paid as on date, is not paid within the 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.

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

(SANJAY VASHISTH)
JUDGE

18.09.2024
Lavisha

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