IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-3590-2005 (O&M)
Decided on : 26.09.2024

Amar Kaur and others
. . . Appellant(s)

Versus

Manish Kumar Singla and others
. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Yadvinder Singh Turka, Advocate and
Ms. Jaspreet Kaur Sandhu, Advocate
for the appellant(s).

Mr. Suman Jain, Advocate
for the respondent – Insurance Company.

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SANJAY VASHISTH, J. (Oral)

1. The present appeal has been filed by the appellants/petitioners/claimants - (1) Amar Kaur (wife), (2) Gurvinder Singh (now deceased son), (3) Jaswinder Singh(son), (4) Jarnail Kaur (mother), and (5) Amar Singh (father) (hereinafter referred as 'claimants'), in MACT Case No.194 of 2004, for modification of award dated 13.02.2003, passed by Ld. Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as 'Ld. Tribunal') by seeking enhancement of amount of compensation, on account of death of deceased –Amrik Singh.

2. Briefly stated facts of the case are that on 31.03.2004, at about 5:30/45 A.M., Amrik Singh (deceased) was going on his motorcycle along with his co-brother/Sadu – Gurdayal Singh (PW3)/pillion rider, towards bus stand, Ambala City from the side of Milap Nagar. They stopped the motorcycle in front of Zandu Tyre Workshop as Gurdayal singh had to pick –up some luggage from the shop. Amrik Singh (Deceased) parked his motorcycle on the kacha portion of road and remained sitting on the bike, waiting for Gurdayal Singh. While coming out of shop, Gurdayal Singh saw one Indica Car HR-01-P-0050 approaching deceased from the back side, at a very high speed, driven in a rash and negligent manner. The car stuck against the motorcycle of deceased causing him to fall and sustain various injuries. He was taken to Civil Hospital, Ambala City, wherefrom, he was referred to PGI, Chandigarh. Unfortunately, where he succumbed to his injuries. As a result of which, FIR was also got registered (Exh.P1).

3. Appellants/claimants, filed a claim petition under Section 166 of the motor vehicle Act, 1988 for seeking compensation on the account of death of deceased – Amrik Singh. However, after going through the record, appreciating the evidence, examining the witnesses and hearing the arguments of both the sides, Ld. Tribunal assessed the notional monthly income of the deceased after making deductions as Rs.6,000/-, applied the multiplier of 15, granted Rs.2,000/- towards funeral expenses, loss of consortium Rs.5000/- and Loss of Estate Rs.2500/- and Transportation & medicine Rs.1,500/-. Accordingly, awarded total compensation to the claimants to the tune of Rs.10,91,000/- payable by respondents severally and jointly with interest @ 9% per annum from the date of filing of the petition till its realization.

4. Applicants/claimants have filed the present appeal seeking enhancement of compensation, over and above the amount awarded by Ld.

MACT.

5. While addressing arguments, Counsel for the appellants submits that the Ld. Tribunal has erred in determining the notional monthly salary of the deceased – Amrik Singh as Rs.6,000/-, as his gross salary is Rs.9,465/- per month, as per salary certificate Exh.P1/A.

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. On perusal of salary certificate Exh.P1/A, it comes out that gross salary of deceased is Rs.9,465/-per month and respondent has not produced any rebuttal evidence in respect of salary certificate (Exh.P1/A). When the appellants have proved the avocation and had also proved the monthly earnings of the deceased, the Tribunal ought to have considered salary certificate (Exh.P1/A) and accordingly, determine the compensation. As stated supra, in the absence of rebuttal evidence in respect of salary of the deceased, this Court is inclined to take note of the salary mentioned in

Exh.P1/A and accordingly, fixed the monthly income of the deceased at Rs.9,465/-per month.

However, keeping in view of the judgment of the Apex Court a in Pranay Sethi's case (supra),both the Counsel, consented to assess the actual monthly salary of the deceased as Rs.8,465/- after deducting tax.

8. From the evidence on record it stands established that the deceased was in the age band of 41-45 and as per ***Pranay Sethi's case (supra)***, addition of 30%, on the count of 'future prospects' for permanent job has to be made and total amount of earnings comes to be Rs.8,465 + Rs.2,539.5 (30% of Rs.8,465) = Rs.11,004.5 /- per month. Out of the same, keeping in view the number of dependents i.e. parents, widow and two children, 1/4th is to be deducted on account of 'personal expenses', which is to the extent of Rs.2,751.125/- and the residue amount works out to be Rs.8253.375/- per month and annual income comes out to be Rs.99,040.5/-. Considering the age of the deceased as per ***Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121***, the appropriate multiplier of '14' is to be applied in the present case and after, so applying this multiplier, the loss of dependency comes to be Rs.99,040.5/- x 14 = Rs.13,86,567/-.

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 the all of the claimants in the instant appeal.

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.6,000/-p.m.	Rs.8,465/-p.m.
2.	Future Prospects	nil	Rs.2,539.5/-(30% of Rs.8,465+Rs.2,539.5/-)
3.	Deduction towards personal expenses	Rs.3000/- (1/3rd of Rs6,000)	Rs.2,751.125 /- (1/4th of Rs.11,004.5)
4.	Total Annual Income	Rs.72,000/-	Rs.99,040.5/- (Rs.8253.375 /- x 12)
5.	Multiplier	15	14
6.	Loss of Dependency	Rs.10,80,000	Rs.13,86,567/-
7.	Funeral Expenses	2000	Rs.25,000/-
8.	Loss of Estate	2,500	Rs.20,000/-
9.	Loss of Spousal Consortium	5,000	Rs. 48,400 /-
10.	Loss of Parental Consortium	nil	Rs.96,800/- (48,400 x 2)
11.	Loss of filial Consortium	nil	Rs.96,800/- (48,400 x 2)
12.	Total Compensation to be Paid	**Rs.10,91,000/-**	**Rs.16,73,567 /-**

Accordingly, the claimants are entitled for a total compensation of **Rs.16,74,000/- (Rupees Sixteen Lakhs and Seventy Four Thousand only) (rounded-off).**

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.16,74,000/- (Rupees Sixteen Lakhs and Seventy Four Thousand only)**. 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 the appellants (petitioner/claimant),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.

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.

Misc. application(s), if any, also stand disposed of.

(SANJAY VASHISTH)
JUDGE

September 26, 2024
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No