IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

FAO-3947-2005 (O&M)
Decided on : 25.10.2024

Shiva Nand Sharma and others . . . Appellant(s)

Versus

State of Haryana and others . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Suresh Kumar Kaushik, Advocate
for the appellant(s).

Mr. Apoorv Garg, Sr.DAG, Haryana.

Mr. Neeraj Khanna, Advocate for
Mr. R.N. Singal, Advocate
for respondent No.3 – Insurance Company.

****

SANJAY VASHISTH, J. (Oral)

1. The present appeal has been filed by the appellants/claimants (hereinafter referred as 'claimants') in MACT Case No. 197 of 2003, for modification of award dated 14.06.005, passed by Ld. Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as 'Ld. Tribunal') by way of enhancement of amount of compensation, on account of death of deceased –'Satya Bhama Sharma'.

2. Briefly stated facts of the case are that on 07.07.2003, deceased was travelling towards bus stand, Bhiwani to board a bus for going to Hansi, with one Parveen Kumar on motorcycle bearing registration no.HR-16C/8612 as Pillion rider. When they reached near police Chowki Sabzi Mandi, Rohtak Road, a bus bearing registration no.HR-16-PA-0408, driven by respondent no.2 came at a very high speed from the opposite direction and hit the motorcycle. As a result of which, Satya Bhama (deceased) fell down and sustained fatal injuries and ultimately succumbed to them. Resultantly, case was registered at P.S Bhiwani.

3. Two sons of the deceased namely; Shiva and Uma (minor) and Nija Nand (widower of the deceased), filed a claim petition under Section 166 of the motor vehicle Act, 1988 for seeking compensation on account of death of Satya Bhama Sharma in the motor vehicular accident. However, after going through the record, appreciating the evidences, examining the witnesses and hearing the arguments of both the sides, Ld. Tribunal has assessed Rs.24,000/-p.a. on account of loss of dependency, applied the multiplier of 15, awarded Rs.2,500/- as funeral expenses and Rs.50,000/- as loss of consortium and accordingly, awarded total compensation to the claimant to the tune of Rs.4,12,500 /- payable by respondents severally and jointly with interest @6% per annum, from the date of filing of the petition till its realization.

4. Appellants/ Claimants have 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 holding that the children were not dependent upon the deceased as she was the mother and children are only dependent upon their father. Further, Tribunal has wrongly assessed the loss of dependency of the deceased – Satya Bhama Sharma, as it failed to appreciate that she was working as a teacher in Government High School and was drawing monthly salary of Rs.10,738/- as per salary certificate; failed to enhance the income on account of future prospects; and thus, did not grant any compensation on account of loss of estate, and loss of

consortium etc.

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. 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.

8. In modern family structures, usually both spouses contribute financially. Ignoring wife's income solely because the husband is also earning, is against the concept of dual incomes in modern households. If both the spouses are earning, there will be more amount available in common pool. Even standard of living improves .Thus, income of the deceased spouse, irrespective of the surviving spouse's earnings, should be considered while assessing the loss of income for the purpose of calculating the compensation payable to the claimants.

Moreover, it is shocking to notice that the tribunal assessed Rs.2,000/-per month on account of loss to the family by way of services which the deceased would have rendered , as deceased's husband hired a male attendant at same monthly wage. Such comparison fails to consider the personal, multifaceted and irreplaceable nature of the deceased's contribution to the family, whereas, deceased's contribution extends beyond mere monetary aspect.

9. It is not in dispute that as per Salary Certificate, deceased namely, Satya Bhama Sharma was working as a Government teacher in Government High School, and drawing a salary of Rs.10,738/-per month. From the evidence on record, it stands established that the deceased was aged about 39 years and as per ***Pranay Sethi's case*** ***(supra)***, addition of 50%, on the count of 'future prospects' has to be made and total amount of earnings comes to be Rs.10,738/- + Rs.5,369/- (50% of Rs.10,738 /-) = Rs.16,107 /- per month. Hence, keeping in view the number of dependents i.e. husband and their two children 1/3rd is to be deducted on account of 'personal expenses', which is to the extent of Rs.5,369 /- and the residue amount works out to be Rs.10,738 /- per month and annual comes to be Rs.1,28,856 /-.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 '15' and after, so applying this multiplier, the loss of dependency comes to be Rs. Rs.1,28,856 /-X 15 = Rs.19,32,840/-

10. 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***.

11. 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.

12. For the sake of convenience, amount of compensation assessed and calculated by this Court is produced below in a tabular form:

Sr. No.	**Heads**	**Compensation awarded by the High Court**
1.	Income	Rs.10,738/-
2.	Future Prospects	50%
3.	Deduction towards personal expenses	1/3rd
4.	Total Annual Income	Rs.1,28,856 /-
5.	Multiplier	15
6.	Loss of Dependency	Rs.10,27,728/-
7.	Funeral Expenses	Rs.25,000/-
8.	Loss of Estate	Rs.20,000/-
9.	Loss of Spousal Consortium	Rs. 48,400 /-
10.	Loss of Parental Consortium	Rs.96,800 /-(Rs. 48,400 X 2)
11.	Loss of filial Consortium	nil
12.	Total Compensation to be Paid	Rs.21,23,040/-

Thus, the claimants are entitled for a total compensation amount of **Rs.21,23,000/-** (rounded-off) as against Rs.4,12,500 /-.

13. Thus, keeping in view the aims and object of the beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (petitioners/claimants) is enhanced to **Rs.21,23,000/- (Rupees Twenty One Lacs and Twenty Three Thousand only)**.

14. 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 is not paid within aforementioned stipulated period, rate of interest would be 9% per annum from the date of filing of claim petition till its actual realization.

And, in case any further delay is caused beyond six months from today, compensation amount is not paid within above mentioned stipulated period, rate of interest would be 12% per annum from the date of filing of claim petition till its actual 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, appeal is allowed with the terms indicated here-above.

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

(SANJAY VASHISTH)
JUDGE

October 25, 2024
J.Ram

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