IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) FAO-4390-2005 (O&M)

Paramjit Kaur and others

...Appellants

VERSUS

Jagdev Singh and others

...Respondents

(ii) FAO-4391-2005 (O&M)

Banta Singh and others

...Appellants

VERSUS

Jagdev Singh and others

...Respondents

Date of Decision: March 07, 2024

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Kapish Singla, Advocate for
Mr.Ashit Malik, Advocate
for the appellants.

Ms.Harsh Rekha Kapoor, AAG, Haryana
for respondent No.3.

Mr.PHS Pannu, Advocate
for respondent No.4.

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ARCHANA PURI, J.

These are two appeals filed by the appellants-claimants to seek enhancement of the compensation, awarded by learned Motor Accident

Claims Tribunal, on account of deaths of Pal Singh and Manjit Singh, in a motor vehicular accident, which took place on 15.02.2004.

Vide impugned Award dated 10.06.2005, learned Tribunal had decided three claim petitions, qua deaths of Jagpal Singh @ Babli, Pal Singh and Manjit Singh, in the accident in question.

FAO-4390-2005 has been filed by the appellants-claimants qua death of Pal Singh, whereas, **FAO-4391-2005** relates to the death of Manjit Singh, having taken place in the accident in question.

So far as the fact of accident, manner of its taking place and the liability fastened upon the respondents, is concerned, it is pertinent to mention that none of the respondents, who have been saddled with the liability, have filed any appeal and thus, this aspect, calls for no further scrutiny.

So far as, deceased Pal Singh is concerned, learned Tribunal had assessed his age to be 49 years and that he was working as Technician Grade-I Fitter, Railway Workshop, Jagadhri and had taken his salary as Rs.10,711/- per month, as per salary certificate Ex.PE. Out of the said amount, personal expenses incurred was assessed to be Rs.3570/-, which was rounded of to Rs.3600/- per month and residue amount was taken as Rs.7111/- per month, which was worked upon as Rs.84,000/- per annum. To the said annual dependency, multiplier of ‘8’ was applied and the compensation was worked upon as Rs.6,72,000/-. Besides the same, Rs.2000/- was granted as funeral expenses and Rs.5,000/- was granted to Paramjit Kaur, on the count of ‘loss of consortium’. Thus, the total compensation, worked upon was Rs.6,79,000/-.

However, as per prevalent settled law, the compensation so worked upon, do call for re-determination.

At the very outset, it is pertinent to mention that though deceased Pal Singh was alleged to be 45 years of age, but however, in the salary certificate, which was proved by PW-6 Dilbag Singh as Ex.PE therein, the date of birth of deceased was mentioned as 23.04.1955. Even, copy of the PAN card of the deceased is Mark 'A' and therein also, the date of birth of deceased is mentioned as 23.04.1955. In any case, considering the aforesaid documents, learned Tribunal had appropriately considered the age of the deceased as 49 years, at the relevant time.

It is categoric claim of the appellants-claimants about Pal Singh to be working as Technician Grade I Fitter, in Railway Workshop, Jagadhri. Paramjit Kaur, widow of the deceased has also deposed to this effect. Besides the same, even PW-6 Dilbag Singh, official of the Northern Railway, Jagadhri Workshop has also brought salary record of deceased Pal Singh, whom he stated to be employed as Technician Grade I, in their department. Even, salary certificate has been proved as Ex.PE. As per said certificate, the monthly salary of the deceased was Rs.10,711/-, annual whereof, comes to be Rs.1,28,532/-. However, the salary of the deceased, ought to be taken into consideration. The income has to be worked upon as minus tax component, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***.

As per the income tax slab for the year 2003-2004, there was exemption from income tax upto the income of Rs.50,000/-. Thereafter, income tax applicable from Rs.50,000/- to Rs.60,000/-, it was 10% i.e.

Rs.1000/-. From Rs.60,000/- to Rs.1,50,000/-, i.e. Rs.128532-60000=Rs.68,532/- (in the case in hand), the income tax applicable was 20% i.e. Rs.13,706/-. Thus, total income tax payable comes to be Rs.14,706/-. Thus, after deduction of the tax, the earnings comes to be Rs.128532-14706=Rs.1,13,826/- per annum.

Keeping in view the number of dependents, deduction to the extent of 1/4th ought to made and thus, the annual dependency is worked upon as Rs.113826-28456(1/4th)=Rs.85,370/-.

Keeping in view the age of the deceased, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 30%, on the count of 'future prospects' ought to be made. Thus, the annual income is worked upon as Rs.85370+Rs.25611(30%)=Rs.1,10,981/-.

Considering the age of the deceased, as per ***Sarla Verma's case,*** appropriate and suitable multiplier, to be applied is '**13**' and by applying the same, the loss of dependency, works out to be Rs.110981x13= **Rs.14,42,753/-**.

Besides the aforesaid, under the conventional heads, as per ***Pranay Sethi's case (supra)***, the compensation ought to be paid, on the count of 'loss of consortium', 'loss of estate' and 'funeral expenses'. 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, are entitled to 'parental', 'spousal' or 'filial' consortium, as required.

In view of the same, appellants-claimants are entitled to compensation, on the aforesaid counts. However, taking into consideration the enhancement as provided in ***Pranay Sethi's case (supra)***, to the extent of 10%, after every three years of passing of the judgment, the compensation payable, on the count of 'loss of consortium' is to the extent of **Rs.48,400/-**, to each of the appellants-claimants and on the similar pattern, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-,** on each count.

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

Loss of dependency	:	**Rs.14,42,753/-**
Loss of consortium (four dependents)	:	**Rs.1,93,600/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.16,72,653/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.16,72,653-6,79,000=Rs.9,93,653/-**. Out of the enhanced amount, appellants-claimants No.2 to 4 are held entitled to Rs.1,50,000/- each and appellant-claimant No.1 is held entitled to residue amount of Rs.5,43,653/-.

Now, let us consider the compensation as awarded by learned Tribunal, on account of death of Manjit Singh. The claim petition was filed by father of deceased Manjit Singh, namely Banta Singh and his two brothers, namely Pritpal Singh and Jarnail Singh.

Learned Tribunal, while considering the marital status of the deceased as unmarried and both the brothers, to be separately employed and married and having their own families and also considering the father of the deceased, as pensioner, who retired from Railway Department, had concluded that none of the claimants were dependent upon the deceased. Taking it to be so and considering the age of the deceased, a sum of Rs.50,000/- was awarded as compensation to Banta Singh, father of the deceased.

The compensation so granted by learned Tribunal definitely calls for enhancement. From the testimony of Banta Singh, it stands established that father of the deceased is a pensioner and is drawing monthly pension of Rs.5,000/-. Both the brothers of the deceased are also following their separate sources of livelihood and they are married. One brother is living separate even from the father.

May it be so, as per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, on the count of 'loss of consortium', compensation can be granted under the heads of 'parental', 'spousal' or 'filial' consortium. Considering the same, though, it is quite obvious that the aged father definitely must be drawing strength from his young unmarried son.

It is pertinent to mention that the word '**dependent**' has a different meaning in different connotation. Some may be dependent in terms of money and others may be dependent in terms of service. Thus, dependency is a relative criteria to claim compensation for loss of dependency. It does not mean financial only. It also includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money. Thus, considering the same, even the married brothers as well as father of deceased, ought not to be deprived of the compensation.

It is pertinent to mention that Manjit Singh, young unmarried son of Banta Singh must be giving maximum company to his father, more particularly, considering Banta Singh to be an aged person. Thus, in view of the aforesaid observations, a lumpsum amount of **Rs.50,000/-** is granted, on the count of dependency.

However, as per ***Pranay Sethi's case (supra)***, under the heads of 'loss of consortium' as well as 'funeral expenses' and 'loss of estate', the compensation, ought to be granted, as already detailed in the earlier portion of the judgment. Considering it to be so and also considering the loss of dependency, the compensation payable to appellant-claimant Banta Singh is re-computated, as herein given:-

Loss of dependency	:	**Rs.50000/-**
Loss of consortium	:	**Rs.48,400/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.1,34,700/-**

Besides the aforesaid, appellants-claimants No.2 and 3, being brothers of the deceased, are also entitled to the compensation to the extent of **Rs.48,400/-** each, on the count of 'filial consortium'.

On the enhanced amount of the compensation, in both the appeals, 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 residue terms of the Award, shall remain the same.

With the above observations, both the appeals stand allowed.

March 07, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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