IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3666-2007 (O&M)
Date of Decision: August 06, 2024

Santosh and others

...Appellants

VERSUS

Rajender Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Vikas P. Singh, Advocate
for the appellants.

Mr.Rahul Pathania Advocate for
Mr.R.C.Kapoor, Advocate
for respondent No.4.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Satbir Singh, in a motor vehicular accident, which took place on 20.08.2005.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have caused, on account of rash and negligent driving of truck bearing registration No.RJ-18PA-0138, driven by respondent No.1-Rajender Singh, as a result whereof, Satbir Singh died, during the course of reversing of the aforesaid bus.

So far as, the factum of the accident and manner of taking place of the same, as well as the liability, fastened upon the respondents is concerned, suffice to consider that no appeal, as such, has been filed by the respondents, to dispute the same. Hence, there is no necessity to further dwell upon these aspects.

Be it noted that, the present appeal has been filed by the claimants, for seeking enhancement of the compensation.

In this backdrop, it is pertinent to mention that it is the pleaded case of the appellants-claimants that deceased Satbir Singh was Assistant Sub Inspector in Haryana Police and his monthly earnings were Rs.12,737/- and he was 47 years old, at the time of accident.

Learned Tribunal, considering the age of deceased Satbir Singh and further, while relying upon salary certificate Ex.P3, proved through PW-3 Sant Lal, had concluded about the monthly earnings of the deceased to be Rs.13018/-. Further, out of the same, considering the allowance of Rs.80/- towards Kit maintenance allowance, Rs.150/- towards CA, Rs.250, towards R.M., Rs.250/- towards R.M.E. and Rs.763/- towards HRA, total whereof was Rs.1493/-, were deducted. Making this deduction, the earnings were taken to be Rs.11,525/- per month.

Considering the date of birth of deceased, as spelt out from the service book Ex.P4, was concluded to be 15.01.1958. Hence, the deceased was concluded to be 47 years 8 months old, at the time of accident.

In the light of the aforesaid, 1/3rd was deducted, on the count of 'personal expenses' and the monthly dependency of the claimant was taken to be Rs.7683.33., the annual whereof, works out to be Rs.92,200/-. While applying the multiplier of '12', the compensation was worked upon as

Rs.11,06,400/-. Besides the same, another amount of Rs.10,000/-, on the counts of consortium, transportation and last rites was granted. In total, the compensation granted was Rs.11,16,400/-

However, the computation of compensation aforesaid, do call for re-determination, as per settled prevalent law.

So far as, vocation of the deceased is concerned, the same stands amply established from the service record, proved by PW-3 Sant Lal. Also, from salary certificate Ex.P3, it is evident that deceased was drawing the salary of Rs.13,018/- per month. The bifurcation of the emoluments has been given in the said certificate, on the basis whereof, on account of the allowances, the deduction to the extent of Rs.1493/- was made by learned Tribunal. However, the said deduction, ought not to have been made by learned Tribunal. As per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, except deduction on account of income tax, no deduction ought to be made from the salary qua other allowances. Hence, the income of the deceased has to be taken as Rs.13,018/- per month, annual whereof, comes to be Rs.1,56,216/-, minus applicable tax.

Satbir Singh died on 20.08.2005. As per income tax slab existing at the relevant time, the tax on the initial income of Rs.1,00,000/- was 'nil'. The tax for the next amount from Rs.1,00,000/- to Rs.1,50,000/-,w as 10% i.e. Rs.5000/-. For the next Rs.1,00,000/-, the tax payable was 20%. In the present case, the taxable amount was Rs.6216/- (Rs.1,56,216-Rs.1,00,000), the tax payable whereof fall in the bracket of 20%, which comes to be Rs.1243. Thus, the total tax payable comes to be

Rs.6243/-. After deduction of this amount, the residue annual earnings of the deceased comes to be Rs.156216-6243=Rs.1,49,973/-.

Considering the age of the deceased to be 47 years, as per ***Pranay Sethi's case (supra)***, addition of 30%, ought to be made, on the count of 'future prospects'. Thus, the annual income of the deceased is worked upon as Rs.149973+44991(30%)=**Rs.1,94,964/-**.

Learned Tribunal had erroneously deducted 1/3rd, on the count of 'personal expenses'. However, it is not to be done so. The claimants are seven in number. It is pertinent to mention that besides the widow and mother, there are two unmarried daughters as well as minor son of the deceased and these are claimants No.1 to 5. Besides the same, two daughters are married daughters. Considering the marital status of these two daughters, it is quite obvious that they were not dependent upon the deceased, on day to day basis. Considering the same and the number of dependents, the appropriate deduction, ought to be 1/4th, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***. Thus, after deducting the same, the loss of dependency is worked upon as Rs.194964-48741(1/4th)=**Rs.1,46,223/-**.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**13**', and thus, by applying the same, the loss of dependency, works out to be Rs.146223x13=**Rs.19,00,899/-**.

Besides the aforesaid, 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. Even though, there are two married daughters of the deceased, but however, they were emotionally dependent upon the parents, if not financially, on day-to-day basis.

Considering the same, as per ***Pranay Sethi’s case (supra)***, the compensation, on the count of ‘loss of consortium’, at present, works out to be Rs.48,400/- to each of the claimants i.e. Rs.48400x7=**Rs.3,38,800/-** and likewise, 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 Satbir Singh, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.19,00,899/-**
Loss of consortium	**:**	**Rs.3,38,800/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.22,75,999/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.22,75,999-11,16,400=Rs.11,59,599/-**. On the enhanced amount of the compensation i.e. **Rs.11,59,599/-**, 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 worked upon, appellants-claimants No.3 and 4, namely, Smt.Seema and

Smt. Asha, are held entitled to compensation to the extent of Rs.48,400/- each. From the residue amount i.e. Rs.1159599-96800=**Rs.10,62,799/-**, appellant-claimant No.1 is held entitled to **Rs.3,62,799/-** and appellant-claimant No.2 is held entitled to **Rs.1,00,000/-** and appellants-claimants No.5 to 7 are held entitled to Rs.2 lakh each.

Accordingly, the impugned Award dated 04.01.2007 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

With the above observations, the present appeal stands allowed.

The pending civil misc. application, if any, shall stand disposed of.

August 06, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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