IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3508-2006 (O&M)
Date of Decision: August 01, 2024

Laxmi Devi and others

...Appellants

VERSUS

Parkash Chander and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Neeraj Khanna, Advocate
for the appellants.

Mr.Sanjiv Pabbi, Advocate
for respondent No.3.

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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 Mam Raj, in a motor vehicular accident, which took place on 21.02.2002.

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.

On appraisal of the evidence, brought on record, learned Tribunal had taken into consideration the income tax return of the deceased Ex.P5, which related to the assessment year 2000-2001 i.e. soon before the death of Mam Raj, in a motor vehicular accident. Ex.P5 reveals the income from business to be Rs.78,000/- and income from interest from bank as Rs.5300/-, total whereof comes to be Rs.83,300/-. Besides the same, the income from agriculture pursuit was depicted in the income tax return as Rs.1,56,423/-. The deduction of tax was stated to be Rs.9000/-. Also, while considering the extent of agricultural land owned, which is coming forth as 4 acres, learned Tribunal had assessed the earnings of the deceased from the agricultural pursuit as Rs.3,000/- per month i.e. Rs.36,000/- per annum. However, the earnings from interest from bank was never taken into consideration and besides the same, Rs.78,000/- per annum, shown as earnings from the business was considered and the total amount of earnings was worked upon as Rs.78000+36000=Rs.1,14,000/-.

After making such calculation, further it was observed by learned Tribunal that '*To be on liberal side I do not deem it fit to deduct any income tax from the said income. If one third equal to Rs.38,000/- is deducted for personal maintenance and keep-up, then the annual dependency remains as Rs.76,000.*'

While taking it to be so, multiplier of '16' was applied as the deceased was considered to be falling in the age bracket of 55-60 years. Another amount of Rs.9000/- was granted as expenses on last rites. The compensation, so worked upon by learned Tribunal, in tabular form, is reproduced, as herein given:-

Annual income	Rs.1,14,000/-
Deductions on personal maintenance and keep up -	Rs.38,000/-
Multiplier of 6 at the @ Rs.76,000/-	Rs.4,56,000/-
Expenses on last rites	Rs.9000/-
Total	Rs.4,65,000

The work on of the compensation aforesaid, definitely calls for re-determination, as per prevalent settled law.

At the very outset, it is pertinent to mention that it is categoric claim of the appellants-claimants that deceased was 52 years old. However, considering the recitals of the age, coming forth in the medical record, it was concluded about the deceased to be falling in the age bracket of 55-60 years and thereafter, the compensation was worked upon. However, it is pertinent to mention that in Ex.P5, which is the income tax return filed by the deceased himself, in the preceding year, he himself had stated his age to be 53 years. In the given circumstances, the age of the deceased is concluded to be 53 years.

Taking it to be so, now the earnings of the deceased have to be worked upon. Singular income tax return for the assessment year 2000-2001 has been proved in evidence, which is Ex.P5. It was filed by Mam Raj, soon before this death.

May it be so, learned counsel for the appellants-claimants vehemently submits that the earnings of the deceased, as depicted in the income tax return Ex.P5 ought to be considered in toto. Rather, upon the same, there has to be addition on the count of ‘future prospects’. Taking it to be so, it is submitted that the compensation, which has been worked upon by learned Tribunal is on lower side, which calls for extensive enhancement.,

On the other hand, learned counsel for the insurance company has assiduously resisted the claim of the appellants-claimants. Rather, it is submitted that entire earnings, as such, cannot be taken into consideration. In fact, income from the interest from the bank, as such, has to be excluded in toto. Even, agricultural income cannot be taken into consideration, as the land is still available with the appellants-claimants. Rather, it is submitted that the compensation granted, has to be scaled down.

In the light of the submissions aforesaid, the question which arises is, as to whether the entire agricultural income is to be taken into consideration or deducted, from the extent of earnings, as depicted in the income tax return filed. In this regard, reference is made to ***K.Ramya and others vs. National Insurance Company Ltd. and another, 2022(4) RCR (Civil) 435***, wherein, it was observed by the Hon'ble Supreme Court, as herein given:-

> *21. Now, the sole issue which remains before this court is whether the entire amount under 'Income from House Property and Agricultural Land' should be deducted or not. In this respect, we are guided by the observations of this court in State of Haryana v Jasbir Kaur [16] wherein it was noted that -*
>
> *8. xxxx*
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> *The land possessed by the deceased still remains with his legal heirs. There is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly applicable to cases where agricultural income is the source. Attendant circumstances have to be considered.*
>
> *(Emphasis Applied)*
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> *In our opinion, the abovementioned observations, though made in the context of agricultural land, would also be applicable to rent received from leased out properties as the loss of*

> *dependency arises mainly out of loss of management capacity or efficiency. As a rule of prudence, computation of any individual's managerial skills should lie between 10 to 15 per cent of the total rental income but the acceptable range can be increased in light of specific circumstances. The appropriate approach, therefore, is to determine the value of managerial skills along with any other factual considerations.*
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> ***State of Haryana v Jasbir Kaur (2003) 7 SCC 484***

In the light of the aforesaid dictum, it is the managerial skills required to supervise the land, which ought to be considered. As held by the Hon'ble Supreme Court, in the aforesaid case, as a rule of prudence, computation of any individual's managerial skills, should lie between 10 to 15 per cent of the rental income (rental/agricultural income). But anyhow, reverting to the case in hand, the mutation and jamabandi have been proved as Ex.P6 and Ex.P8, respectively, which reveals about the deceased Mam Raj, to be one of the co-sharer in the agricultural land. Both PW-3 Naresh Kumar, son of the deceased as well as PW-2 Sakinder Lal, Lambadar of the village, in their respective affidavits, have categorically stated about the deceased to be having 4 acres of agricultural land.

Considering the same, in the case of agricultural land, even though, the land is available with the claimants, but then also, there is managerial loss, on account of death of Mam Raj. Very appropriately, it has been observed by learned Tribunal that labourer normally used to earn Rs.2100/- per month, at the relevant time, but however, the deceased had an expertise in cultivation and therefore, the expert hand has been lost and thus, his earnings were equated with skilled worker and it was taken as Rs.3,000/- per month i.e. Rs.36,000/- per annum. This amount, as such, cannot be said to be on higher side and therefore, this amount, as assessment of loss of earnings, is just and reasonable.

Besides the aforesaid, it is pertinent to mention that it is categoric claim of the appellants-claimants that the deceased was working as private contractor also. Even, in the income tax return, the earnings from business, have been reflected as Rs.78,000/-, which is taken as it is, as obviously, the person attempts to grow further in live, with each succeeding year. However, the amount of interest, which is to the extent of Rs.5300/- is discarded in toto. The total of both the aforesaid sources of earnings, as such, comes to be Rs.36000+78000=Rs.1,14,000/- per annum.

Considering the age of the deceased to be 53 years, as ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 10%, ought to be made, on the count of 'future prospects'. Thus, the annual income of the deceased is worked upon as Rs.114000+11400(10%)=**Rs.1,25,400/-**.

Keeping in view the claimants to be four in number, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the deduction ought to be made to the extent of 1/4th, on the count of 'personal expenses'. Thus, after deducting the same, the loss of dependency is worked upon as Rs.125400-31350(1/4th)=**Rs.94,050/-**.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**11**', and thus, by applying the same, the loss of dependency, works out to be Rs.94050x11=**Rs.10,34,550/-**.

Besides the same, as per ***Pranay Sethi's case (supra)***, under the conventional heads, the appellants-claimants are entitled to compensation on the counts of 'loss of consortium', 'loss of estate' and 'funeral expenses'. 'funeral expenses'. As per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, all the claimants/dependents, are entitled to compensation, on the count of 'loss of consortium'.

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.48400x4=**Rs.1,93,600/-** 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 Mam Raj, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.10,34,550/-**
Loss of consortium	**:**	**Rs.1,93,600/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.12,64,450/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.12,64,450-4,65,000=Rs.7,99,450/-**. On the enhanced amount of the compensation i.e. **Rs.7,99,450/-**, 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 awarded, appellant-claimant No.1 is held entitled to Rs.4,99,450/- and appellants-claimants No.2 to 4 are held entitled to Rs.1,00,000/- each.

Accordingly, the impugned Award dated 11.08.2005 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.

August 01, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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