

2024:PHHC:090416



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-5717-2019 (O&M)
Date of Decision: July 18, 2024

Jagraniya and another

...Appellants

VERSUS

Vinod and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Wazir Singh, Advocate
for the appellants.

Respondent No.1 proceeded against ex-parte.

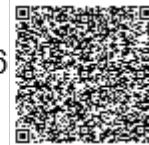
Mr.Satpal Dhamija, Advocate
for respondent No.2.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Karan Saroj, in a motor vehicular accident, which took place on 13.08.2016.

In pursuance of the notice issued, respondent No.2-insurance company made appearance through counsel. However, respondent No.1 was proceeded against ex-parte, vide order dated 08.11.2023.

So far as, the factum of the accident and manner of taking place of the same, as well as the liability, so fastened upon the respondents is



concerned, no appeal, as such, has been filed by the respondents, to dispute the same. Hence, there is no necessity to further dwell on these aspects.

The facts germane, to be noticed, are as follows:-

That, on 13.08.2016, Karan Saroj and his uncle Kamta Parsad, while proceeding to Balaji Factory, Panipat, were the occupants of the ill-fated three-wheeler. When the said vehicle reached near BBMB, G.T. Road, Panipat, Karan Saroj fell down from the said vehicle, on having become imbalanced and he sustained multiple grievous injuries, which proved fatal. Relating to the same, FIR No.0888 dated 13.08.2016 was registered.

While asserting about the accident to have caused, due to rash and negligent driving of the three-wheeler by its driver-cum-owner Vinod-respondent No.1, the parents of the deceased Jagraniya and Mool Chand had filed the claim petition for seeking compensation. They asserted about deceased Karan Saroj to be 18 years old and that he was working as labourer in Balaji Factory, Panipat and his income was Rs.10,000/- per month.

However, the factum of accident, as such, has not been denied by the driver-cum-owner. Rather, it is asserted that the three-wheeler was driven at a moderate speed and all other assertions were denied. Even, the insurance company had filed separate reply.

On appraisal of the evidence, learned Tribunal had made assessment of the compensation and ordered the same to be paid by the respondents, while granting recovery rights to the insurance company.

Learned Tribunal took the monthly income of the deceased as Rs.10,000/- per month, annual whereof comes to be Rs.1,20,000/-. Considering the deceased to be a bachelor, deduction of 50% was made, on



the count of 'personal expenses' and the loss of dependency was taken as Rs.60,000/- per annum. Further, learned Tribunal considered the deceased to be 22 years and considering the same, addition of 40% was made, on the count of future prospects, which came to be Rs.24,000/-.

Considering the age of the deceased, multiplier of '18' was applied on the amount of 'loss of dependency' and 'future prospects' and the same was worked upon as $\text{Rs.}60000 \times 18 = \text{Rs.}10,80,000/-$ and $\text{Rs.}24000 \times 18 = \text{Rs.}4,32,000/-$, respectively. Thus, after making addition of both the aforesaid counts, the compensation was worked upon as Rs.15,12,000/-. Besides the same, Rs.40,000/- was granted on the count of 'loss of filial consortium' and Rs.15,000/- was granted on the count of 'funeral expenses' and another amount of Rs.15,000/- was granted, on the count of 'loss of estate'. As such, in total, the compensation awarded was Rs.15,82,000/-.

During the course of arguments, learned counsel for the appellants submitted that he does not dispute about the extent of earnings, so taken by learned Tribunal and the compensation worked upon, as the addition on the count of 'future prospects' as well as multiplier applied, for work on of the compensation, are appropriate one. It is so, in consonance with the guidelines laid down in *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009* and *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*.

However, emphasis is laid on the enhancement under the conventional heads. So far as, on the count of 'loss of consortium', the amount granted is Rs.40,000/-. This amount is definitely on a lower side.



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.

As per *Pranay Sethi's case (supra)*, the compensation payable, with enhancement clause of 10%, after every three years of passing of the judgment, on the count of 'loss of consortium' is to the extent of **Rs.48,400/-** to each of the claimants (i.e. $Rs.48400 \times 2 = Rs.96,800/-$) 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 Karan Saroj, is re-computed, as herein given:-

Loss of dependency	:	Rs.10,80,000/-
Future prospects	:	Rs.4,32,000/-
Loss of consortium	:	Rs.96,800/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.16,45,100/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.16,45,100-15,82,000=Rs.63,100/-**. On the enhanced amount of the compensation i.e. **Rs.63,100/-**, 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.

Accordingly, the impugned Award dated 11.03.2019 stands

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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.

July 18, 2024 Vgulati	(ARCHANA PURI) JUDGE
Whether speaking/reasoned	Yes
Whether reportable	Yes/No