IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2755-2011 (O&M)
Date of Decision: July 30, 2024

Murti Devi and others

...Appellants

VERSUS

Sarafat and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Prashant Singh Chauhan and Mr.Aman Yadav, Advocates for the appellant.

Mr.V.K.Garg, Advocate for respondent No.3.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, assailing the Award dated 01.02.2011, whereby, compensation was granted by learned Motor Accident Claims Tribunal, on account of death of Vinod Kumar, in a motor vehicular accident, which took place on 22.07.2009.

Initially, the claim petition was filed by the parents as well as younger brother of deceased Vinod Kumar. However, on appraisal of the evidence, learned Tribunal had awarded compensation to the extent of Rs.3,43,600/- to Murti Devi only, who is mother of the deceased.

Feeling aggrieved, the appellants-claimants have filed the present appeal.

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 challenge the same. Hence, there is no necessity to further dwell on these aspects. Be it noted that the appeal is for seeking enhancement of the compensation and for asserting the entitlement of appellants No.2 and 3 to the compensation.

From the evidence on record, it stand established that deceased Vinod Kumar was 20 years old and he was asserted to be a Technician, gym operator and agriculturist by profession, having an income of Rs.20,000/- per month.

To substantiate the source of livelihood of the deceased, various witnesses have been examined by the claimants. Appellant-claimant Murti Devi, mother of the deceased has stepped into witness box as PW-5. She has deposed about qualification of the deceased and his earnings. The matriculation certificate of the deceased has been proved as PW-5/1 and Senior Secondary Examination certificate has been proved as PW-5/2 and visiting card of deceased as PW-5/3.

Besides the aforesaid witness, another material witness is PW-6 Ravi, who, in his affidavit Ex.PW6/A, has categorically deposed about himself to be proprietor of Ashi Computer/Cyber Cafe situated at Big Bazar, Bhiwadi and deposed about the deceased to be working under his employment and he used to give him Rs.5000/- per month, plus other perks. Also, he deposed about deceased Vinod Kumar to have started a gym, in the month of April 2009, independently and earning Rs.20,000/- per month.

Besides the said witness, another witness examined, is PW-7 Imran Khan, who deposed about the gym, run by the deceased and that he joined said gym and used to pay Rs.300/- per month to the deceased.

Even though, the oral evidence, to establish the aforesaid vocation followed by the deceased, is coming on record, but however, no document, as such, relating to the indulgence of the deceased qua working in Cyber cafe and running of the gym, has been brought on record. Even, no income tax or any other satisfactory record, relating to the indulgence of the deceased, in running of the gym or registration of the same, before any forum, has come on record. But anyhow, from Ex.PW5/2, it is evident that deceased Vinod Kumar had done vocational course from the Board of School Education, Haryana. Taking his educational qualification, which establish about diploma in Auto Technician, his earnings, as such, were taken as Rs.4200/- per month, by learned Tribunal, whereupon, considering the marital status of the deceased, deduction to the extent of 50% was made and thus, the earning was taken as Rs.2100/-, annual whereof comes to be Rs.25,200/-. Thereupon, considering the age of the mother, multiplier of '13' was applied and compensation was worked upon as Rs.25200x13=Rs.3,27,600/-. Besides the aforesaid amount, Rs.5000/- was granted on the count of 'funeral and last rites' and another amount of Rs.11,000/- qua treatment of the deceased, till he died.

Definitely, the work on of the compensation, as stated aforesaid, do call for re-determination.

Considering the prevalent minimum wages, at the relevant time, which was to the extent of Rs.4184/- per month and also considering the educational input of the deceased, in the minimum, his earnings can conveniently be taken as Rs.4500/- per month. Undisputedly, the deceased was 20 years old and he was unmarried. As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the deduction has to be made to the extent of 50%, on the count of 'personal expenses'. Making it to be so, the monthly earnings comes to be Rs.2250/-.

To the said amount, considering the age of the deceased, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 40% ought to be made, on the count of 'future prospects'. Thus, the income of the deceased is worked upon as Rs.2200+900(40%)=Rs.3150/-, annual whereof, comes to be **Rs.37,800/-**.

So far as, the application of multiplier is concerned, learned Tribunal had erroneously applied the multiplier of '13' keeping in view the age of the mother of the deceased. However, as Pranay Sethi's case (supra), the age of the deceased has to be taken, for application of the multiplier. As per ***Sarla Verma's case (supra)***, considering the age of the deceased, the appropriate and suitable multiplier, to be applied is '**18**' and while applying the same, the loss of dependency, works out to be Rs.37800x18= **Rs.6,80,400/-**.

Besides the same, the compensation ought to be granted under the conventional heads. At this juncture, it is pertinent to mention that even, considering the age of the father, the compensation has been denied and mother is only taken to be dependent, but however, on the count of 'loss of consortium' as per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, the compensation ought to be paid, on the count of 'loss of consortium' even to the father and the younger brother of the deceased.

Thus, as per ***Pranay Sethi's case (supra)***, considering the enhanced amount, while application of 10% increase after period every three years from the passing of the judgment, the compensation, on the aforesaid count, works out to be, Rs.48,400/- to each of the claimant i.e. Rs.48400x3=**Rs.1,45,200/-** 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 Vinod Kumar, is re-computed, as herein given:-

Loss of dependency	:	**Rs.6,80,400/-**
Loss of consortium	:	**Rs.1,45,200/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.8,61,900/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.8,61,900-3,43,600=Rs.5,18,300/-**. On the enhanced amount of the compensation i.e. **Rs.5,18,300/-**, 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. However, out of the enhanced amount, as now awarded, appellants-claimants No.2 and 3 are held entitled to the amount of Rs.48,400/- each and appellant-claimant No.1, shall be entitled to residue amount of Rs./-4,21,500/-.

Accordingly, the impugned Award dated 01.02.2011 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.

July 30, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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