

2024:PHHC:049395

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6260-2010 (O&M)
Date of Decision: April 10, 2024

Smt.Sheela Devi and others

...Appellants

VERSUS

Anil Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.S.S.Khurana, Advocate
for the appellants.

Mr.Ravinder Arora, Advocate
for respondent No.3-insurance company.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, questioning the inadequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Paras Chand @ Parth Chand, in a motor vehicular accident, which took place on 06.10.2008.

So far as, fact of the accident, manner of taking place of the same and the liability, so fastened upon the respondents, is concerned, it is pertinent to mention that none of the respondents, who were made liable, have filed any appeal, to assail the findings on the said aspect. As such, this matter, warrants no further scrutiny.

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

On appraisal of the evidence, brought on record, learned Tribunal, had taken the earnings of the deceased as that of a labourer to be Rs.4,000/- per month and further, worked upon the compensation.

From the evidence on record, it is evident that it is the pleaded case of the appellants-claimants that deceased Paras Chand @ Parth Chand was 35 years old, at the time of accident and was working as an agriculturist and earning Rs.15000-20000/- per month. He was also owner of the agricultural land to the extent of 15 Bighas. The copy of the jamabandi is coming on record as Ex.P6. Besides the same also, document is coming forth, with regard to purchase of a tractor by the deceased. Considering the fact of ownership of the land and also of the tractor, coming forth in evidence, the extent of earnings of Rs.4,000/- per, as taken by learned Tribunal, is on lower side and therefore, the compensation, worked upon the same, calls for re-determination.

The widow of the deceased namely Sheela Devi has stepped into witness box as PW-2 and she has categorically deposed about the deceased to be an agriculturist and having 15 Bighas of agricultural land and that he was earnings Rs.15,000/- per month. She also deposed about the deceased to be having tractor and cultivating agricultural land of other villagers, on rent basis. Furthermore, she had also stated that now their land is given on Batai. There is no reason, coming forth, for not relying upon the testimony of appellant-claimant No.1-Sheela Devi. The jamabandi of the land has been proved as Ex.P6. Even though, it is pleaded case that

deceased's share is 15 Bighas, but, as spelt out in the jamabandi Ex.P6, it is evident that the total land works out to be 14.8 Bighas and deceased Paras Chand was having share to the extent of approximately 5.94 Bighas. Relating to the purchase of tractor also, the documents have been tendered into evidence, which are Ex.P10 to P14.

In the given circumstances, it stands established that the deceased Paras Chand was engaged in the agricultural work and was also possessing a tractor. Keeping in view this ownership of the land and being in possession of the tractor also, the earnings of the deceased, as such, cannot be outrightly equated with that of a labourer. At the prevalent time, the minimum wages of a labourer was Rs.3586/- per month. Further, in view of the deceased having ownership of the agricultural land, even to the extent of 6 Bighas, he cannot be considered as labourer. Even though, the agricultural land must still be available with the appellants-claimants, but however, it is on account of loss of managerial skills of the deceased, the compensation is to be worked upon, qua the said agricultural land.

In this regard, beneficial reference is made to decision rendered in *K.Ramya and others vs. National Insurance Company Ltd. and another, 2022(4) RCR (Civil) 435*, wherein, reliance was placed upon *State of Haryana vs. Jasbir Kaur (2003) 7 SCC 484*, wherein, it was observed as herein given:-

8. x-x-x-x

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)

Considering the aforesaid, it was held that the computation of individual's managerial skills, ought to be taken into consideration.

Considering the aforesaid case law and also considering the attendant circumstances, spelt out from the evidence, about the ownership of the tractor by the deceased and as stated by PW-2 Sheela Devi, about the use of the tractor in the cultivation process on rent basis, in modest estimate, the earnings of the deceased, as such, are taken to be Rs.8000/- per month.

Considering the age of the deceased to be 35 years, as per ***Pranay Sethi's case***, addition of 40% ought to be made, on the count of 'future prospects'. Making it to be so, the income of the deceased is worked upon as $\text{Rs.8000} + \text{Rs.3200}(40\%) = \text{Rs.11,200/-}$.

Out of the said amount, instead of 1/3rd, as done by learned Tribunal, 1/4th is to be deducted on the count of 'personal expenses' as per ***Sarla Verma's case***. Thus, making this deduction, the loss of dependency comes to be $\text{Rs.11200} - 2800 = \text{Rs.8400/-}$, annual whereof, comes to be Rs.1,00,800/-

Learned Tribunal had applied the multiplier of '17' to work upon the compensation, but however, considering the age of the deceased to 35 years, as per ***Sarla Verma's case***, appropriate and suitable multiplier, to be applied is '16' and by applying the same, the loss of dependency, works out to be $\text{Rs.100800} \times 16 = \text{Rs.16,12,800/-}$.

***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009
Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***

Besides the aforesaid, under the conventional heads, as per *Pranay Sethi's (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/claimants, 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. As per *Pranay Sethi's case (supra)*, the compensation payable, at present, on the count of 'loss of consortium' is to the extent of **Rs.48,400/-**, to each of the 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 Paras Chand @ Parth Chand, is re-computed, as herein given:-

Loss of dependency	:	Rs.16,12,800/-
Loss of consortium	:	Rs.1,93,600/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.18,42,700/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.18,42,700-5,44,000=Rs.12,98,700/-**. On the enhanced amount of the compensation i.e. **Rs.12,98,700/-**, 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.

Out of the compensation, as now awarded, appellant-claimant No.1-Sheela Devi, is held entitled to Rs.9,42,700/-, whereas, appellants-claimants No.2 to 4, are held entitled to Rs.3,00,000/- each. Any amount, if disbursed earlier, be deducted from the proportionate share, as now awarded. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid terms, the present appeal stands allowed.

April 10, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No