



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-7038-2011 (O&M)
Date of Decision: July 17, 2024

Shakuntla Devi
...Appellant

VERSUS

Baliati Ram and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Ms.Mamta Saini, Advocate for
Mr.Ravinder Malik, Advocate
for the appellant.

Service of respondent No.1 dispensed with.

Mr.Alankrit Bhardwaj, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby, seeking enhancement of the compensation, awarded by learned Motor Accident Claims Tribunal, on account of death of her son, namely, Azad Singh, in a motor vehicular accident, which took place on 19.06.1987.

Initially, the claim petition was filed by appellant-claimant Shakuntla Devi as well as her husband Kastura, on account of death of their son, in a motor vehicular accident. On appraisal of the evidence, brought on record, learned Tribunal had concluded that the accident had taken place, due to rash and negligent driving of the truck bearing registration No.HRE-4536, driven by Baliati Ram-respondent No.1 and thus, worked upon the compensation. Taking into consideration the age of the deceased to be 19 years, the compensation was awarded to the extent of Rs.38,400/-, qua



mother only and liability was fastened upon respondents No.1, 3 and 6 and they were made liable to pay the compensation, jointly and severally.

However, vide this Award, the compensation was denied to the father of the deceased.

Feeling aggrieved, the appellant-claimant has filed the present appeal, for seeking enhancement of the compensation.

In pursuance of the notice issued, respondent No.3-insurance company made appearance through counsel. However, none had made appearance on behalf of the respondents No.1, 4, 5 and 7 and as such, they are proceeded against ex-parte. Service of respondents No.2 and 6 still remained to be effected. But anyhow, it is pertinent to mention that the present appeal has been filed for seeking enhancement of the compensation and the liability fastened vide impugned Award upon the respondents, is joint and several. In the given circumstances, at this stage, service of respondents No.2 and 6, as such, is hereby dispensed with, as the insurance company is already making appearance, through counsel.

So far as, the factum of the accident and the manner of taking place of the same is concerned, suffice to make mention that the respondents, who have been made liable to pay the compensation, have not challenged the liability, so fastened upon them.

In this backdrop, learned counsel for the appellant-claimant has assiduously submitted that learned Tribunal had erroneously considered the earnings of the deceased as Rs.20 per day and considered his monthly income as Rs.600/-. Also, further deductions made, on the count of 'personal expenses' and his being bachelor, the compensation has been



worked upon, while considering the 'loss of dependency' to be Rs.200/-, which is on lesser side. Even, the multiplier applied is not appropriate. Thus, the consequential work on of the compensation to the extent of Rs.38400/- is quite meagre. Besides the same, also it is submitted that under the conventional heads, the compensation ought to be granted. As such, a prayer has been made for acceptance of the appeal and for extensive enhancement of the compensation.

On the contrary, learned counsel for the insurance company has resisted the claim of the appellant-claimant. He submits that no satisfactory evidence has been brought on record, vis-a-vis, indulgence of the deceased into poultry and dairy farming and also, his earnings from his being attached with the truck in question, as such, does not stand established. Considering the same, the earnings, so assessed by learned Tribunal is just and reasonable, which calls for no further enhancement. As such, it is prayed that appeal sans merit and the same deserves to be dismissed.

Undisputedly, from the evidence brought on record, it stands established that deceased Azad Singh was 19 years old, at the time of accident. Even though, he was asserted to be working as agricultural labourer and doing business of poultry and dairy farming and earning Rs.3000/- per month, but however, appropriately, it has been considered by learned Tribunal that indulgence of the deceased in the business of poultry and dairy farming, does not stand established. But anyhow, on the basis of the testimonies of the witnesses examined, apart from Shakuntla Devi, mother of the deceased, it stands established that the deceased was working as a Cleaner, on the offending truck. Though, it is taken that he was



working only for 15 days, but however, the fact of his working only for 15 days, as such, does not stand established. Therefore, indulgence of the deceased in labour work, while being attached with the truck in question, is bound to be for the entire month. Taking it to be so, the earning taken as Rs.20 per day, in other words, as Rs.600/- per month, is on a lesser side.

Also, it is not disputed that the deceased was unmarried at the relevant time. 1/3rd has been excluded by learned Tribunal, on account of 'personal expenses' and the contribution towards his family was taken as Rs.200/- per month, annual whereof is Rs.2400/-. The multiplier of '16' was applied and on the application of same, Rs.38,400/- was worked upon as compensation.

The work on of the compensation, do call for re-determination, as per the prevalent settled law.

The deceased was working as a labourer, while being attached with truck bearing registration No.HRE-4536. Considering him to be so, in the fitness of the circumstances, in modest estimate, the earnings of the deceased are taken as Rs.800/- per month. To the said amount, considering the age of the deceased to be 19 years, addition of 40% ought to be made, on the count of 'future prospects', as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***. In total, the monthly earnings are taken as Rs.800+320(40%)=Rs.1120/-

Since, the deceased was a bachelor, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, deduction to the extent of 50% is to be made, on the count of 'personal expenses', if other constrained circumstances are not spelt out. Herein, it is the mother only, who is taken to be dependent of the deceased and in this context, the



deduction ought to be to the extent of 50%. Taking it to be so, the loss of dependency comes to be Rs.560/-, the annual whereof, comes to be Rs.6720/-.

Also, the multiplier applied by learned Tribunal is on lower side. As per *Sarla Verma’s case (supra)*, the appropriate and suitable multiplier, to be applied is ‘18’ and while applying the same, the loss of dependency, works out to be Rs.6720x18=**Rs.1,20,960/-**.

At this juncture, it is pertinent to mention that, no compensation was granted under the conventional heads. However, amounts are to be paid under the conventional heads, namely, ‘loss of consortium’, ‘loss of estate’ and ‘funeral expenses’, as held in *Pranay Sethi’s case (supra)*. 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. Thus, 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/-** 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 appellant-claimant, on account of death of Azad Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.1,20,960/-
Loss of consortium	:	Rs.48,400/-
Loss of estate	:	Rs.18,150/-



Funeral expenses : Rs.18,150/-
Total : Rs.2,05,660/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be Rs.2,05,660-38,400=Rs.1,67,260/-.

It is necessary to make mention that at the time of awarding compensation, learned Tribunal had also held claimant to be entitled to interest @12% from the date of filing of the claim petition, till realization. However, this amount of interest is on higher side, as per prevalent rates existing today, but it should be kept in mind that accident had taken place on 19.06.1987 and since the death of Azad Singh, his dependent is pursuing legal proceedings, for grant of compensation.

Considering the aforesaid fact situation, it is appropriate to direct that on the enhanced amount of the compensation i.e. Rs.1,67,260/-, the appellant-claimant shall be entitled to the interest, at the rate of 9% per annum, from the date of filing/registration of the present appeal, till realization of the enhanced amount of compensation.

Accordingly, the impugned Award dated 28.09.1988 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 17, 2024
Vgulati

Whether speaking/reasoned
Whether reportable

(ARCHANA PURI)
JUDGE
Yes
Yes/No