IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) FAO-10036-2014 (O&M)

Preet and others

...Appellants

VERSUS

Ravinder Singh and others

...Respondents

(ii) FAO-2338-2015 (O&M)

Soma Kaur @ Harmandeep Kaur and others

...Appellants

VERSUS

Ravinder Singh and others

...Respondents

Date of Decision: August 23, 2024

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Tushar Deep Garg, Advocate
for the appellants.

Mr.A.K.Garg, Advocate
for respondents No.1 and 2.

Mr.Shubhkarman Singh Gill, Advocate for
Mr.Kshitij Sharma, Advocate
for respondent No.3.

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ARCHANA PURI, J.

These are twin appeals filed by the appellants-claimants, thereby, seeking enhancement of the compensation, awarded by learned

Motor Accident Claims Tribunal, in two claim petitions, qua death of Pritpal Singh @ Lala s/o Jagjit Singh @ Kaka and Pritpal Singh s/o Darshan Singh, arising from the same accident.

FAO-10336-2014 has been filed by the appellants-claimants for seeking compensation qua death of Pritpal Singh @ Lala s/o Jagjit Singh @ Kaka, whereas, FAO-2338-2015 has been filed by the appellants-claimants, to seek compensation, qua death of Pritpal Singh s/o Darshan Singh.

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

That, on 03.03.3013, Pritpal Singh @ Lala s/o Jagjit Singh @ Kaka, together with Pritpal Singh s/o Darshan Singh, Amandeep Singh and Kuldeep Singh, while being occupants of the Zen car bearing registration No.HR-26G-3175, were proceeding from Rampura to Nabha. This car was driven by Kuldeep Singh. When the said car reached half kilometer ahead of Mehta T-point, towards Barnala at 11.00 a.m., then from the opposite side, a truck (Ghora) bearing registration No.PB-13Q-7491, loaded with iron sheets, had come, while being driven, in a rash and negligent manner and struck into the car, as a result whereof, was dragged in the ditches and car came underneath the aforesaid truck. Soon after the accident, people gathered from the adjoining place and the passersby had pulled the occupants of the car, from underneath the truck. Kuldeep Singh and Amandeep Singh had received injuries on their bodies, whereas, Pritpal Singh @ Lala s/o Jagjit Singh @ Kaka and Pritpal Singh s/o Darshan Singh, died instantaneously.

FIR No.13 dated 13.03.2013 was got registered at the instance of Amandeep Singh, who was one of the occupants of the ill-fated car.

The respondents made appearance through their respective counsel and filed their respective written statements.

On appraisal of the evidence, on record, learned Tribunal had concluded about the accident to have taken place, due to rash and negligent driving of the truck bearing registration No.PB-13Q-7491, driven by respondent No.1-Ravinder Singh. Thereupon, learned Tribunal, had worked upon the compensation, qua death of Pritpal Singh @ Lala s/o Jagjit Singh @ Kaka. The compensation was worked upon as Rs.6,22,000/-. Even, qua death of Pritpal Singh s/o Darshan Singh, learned Tribunal had awarded compensation to the extent of Rs.5,86,000/- and the liability of the respondents, was held to be joint and several.

However, the respondents, upon whom, the liability was fastened to pay the compensation, as such, have not filed any appeal to assail the factum and manner of taking place of the accident as well as the extent of compensation awarded. Hence, this aspect does not call for any further scrutiny.

Now, let us consider the adequacy of the compensation, awarded, on account of death of aforesaid two persons.

Firstly, dealing with the case qua death of Pritpal Singh @ Lala s/o Jagjit Singh @ Kaka. It is the categoric claim of the appellants-claimants Preet (widow) and others that deceased Pritpal Singh was 28 years old and he was running his jewellery shop and earning Rs.30,000/- per month. While considering the testimony of Preet, widow of the deceased, when she stepped into witness box as PW-1 and also considering the disclosure made by her in the cross-examination about her husband, not having his own jewellery shop and that he was working in the shop of someone else, learned Tribunal considered the deceased as a labourer and as such, his income was taken as Rs.4000/- per month, the annual whereof, comes to be Rs.48,000/-. Keeping in view the number of dependents, 1/4th was deducted as ‘personal expenses’ and loss of dependency was taken as Rs.36,000/- per annum. Considering the recitals of post-mortem report Ex.P1, the deceased was concluded to be 28 years old and while making reference to the ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, considering the age bracket of the deceased, multiplier of ‘17’ was applied and loss of dependency was worked upon as Rs.6,12,000/-. Besides the same, Rs.5000/- each was granted on the counts of ‘loss of consortium’ and ‘funeral expenses’. In total, the compensation worked upon was Rs.6,22,000/-.

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

Very correctly, it has been observed by learned Tribunal that when appellant-claimant Preet, widow of the deceased, stepped into witness box as PW-1, she had stated about her husband to be not having his own shop and rather, he was working on the shop of some other person. In the given circumstances, the earnings were assessed as that of a labourer to be Rs.4000/- per month. However, the earnings so assessed, is on lower side. The accident had taken place on 03.03.2013. The minimum wages, existing at the relevant time, were Rs.5695/- per month, which is rounded off as Rs.5700/-. Thus, taking it be so, the compensation has to be re-computed.

From the earnings of Rs.5700/- per month, keeping in view the number of dependents, as per ***Sarla Verma's case (supra)***, 1/4th is to be deducted on account of 'personal expenses' as done by learned Tribunal, which is to the extent of Rs.1425/- and the residue amount works out to be Rs.4275/- per month.

To the said amount, keeping in view the age of the deceased to be 28 years, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 40%, on the count of 'future prospects' has to be made and total amount of earnings comes to be Rs.4275+1710(40%)=Rs.5985/- per month, annual whereof, comes to be Rs.71,820/-.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the suitable and appropriate multiplier to be applied is '**17**' and by applying this multiplier, the loss of dependency comes to be Rs.71820x17=**Rs.12,20,940/-**.

Besides the same, as per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, the claimants are entitled to compensation, on the loss of consortium, be it 'parental', 'spousal' or 'filial'. Taking into consideration, the claimants to be widow and minor children and parents of deceased Pritpal Singh @ Lala, all of them, are entitled to compensation, on the count of 'spousal', 'parental' and 'filial' consortium. As held in ***Pranay Sethi's case (supra)***, with the enhancement clause of 10%, after every three years of the passing of the judgment, the compensation payable, at present, on the count of 'loss of consortium is to the extent of Rs.48,400/- i.e. Rs.48,400x5=Rs.2,42,000/-. Likewise, 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 claimants, on account of death of Pritpal Singh @ Lala, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.12,20,940/-**
Loss of consortium	**:**	**Rs.2,42,000/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.14,99,240/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.14,99,240-6,22,000=Rs.8,77,240/-**.

Now, let us consider the compensation, qua death of Pritpal Singh s/o Darshan Singh. It is the pleaded case of the appellants-claimants that deceased Pritpal Singh was 32 years old and he was working as labourer and earning Rs.400/- per day. Besides the same, there is also assertion of indulgence of the deceased in the sale of milk and earning Rs.15,000/- per month.

However, no satisfactory evidence, with regard to the indulgence of the deceased, in the sale of milk, as such, has come on record and considering the same, learned Tribunal had taken the earnings of the deceased, as that of labourer and assessed the same to be Rs.4000/- per month, annual whereof, comes to be Rs.48,000/-. Keeping in view the number of dependents, 1/4th was deducted as 'personal expenses' and loss of dependency was taken as Rs.36,000/- per annum. Considering the recitals of post-mortem report Ex.P1, the deceased was concluded to be 32 years old and while making reference to the ***Sarla Verma's case (supra)***, considering the age bracket of deceased, multiplier of '16' was applied and loss of dependency was worked upon as Rs.5,76,000/-. Besides the same, Rs.5000/- each was granted on the counts of 'loss of consortium' and 'funeral expenses'. In total, the compensation worked upon was Rs.5,86,000/-.

However, the aforesaid work on of the compensation, do call for re-determination, as per prevalent settled law, as the monthly earnings have been taken on lower side.

As observed in the earlier portion of the judgment, the accident had taken place on 03.03.2013 and the minimum wages, existing at the relevant time, were Rs.5695/- per month, which is rounded off as Rs.5700/-.

Keeping in view the number of dependents, as per ***Sarla Verma's case (supra)***, 1/4th is to be deducted on account of 'personal expenses' as done by learned Tribunal, which is to the extent of Rs.1425/- and the residue amount works out to be Rs.4275/- per month.

To the said amount, keeping in view the age of the deceased to be 32 years, as per ***Pranay Sethi's case (supra)***, addition of 40%, on the count of 'future prospects' has to be made and total amount of earnings comes to be Rs.4275+1710(40%)=Rs.5985/- per month, annual whereof, comes to be Rs.71,820/-.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the suitable and appropriate multiplier to be applied is '**16**' and by applying this multiplier, the loss of dependency comes to be

Rs.71820x16=**Rs.11,49,120/-**.

As observed aforesaid, all of claimants are entitled to compensation, on the count of 'spousal', 'parental' and 'filial' consortium. The compensation payable, at present, on the count of 'loss of consortium is to the extent of Rs.48,400/- i.e. Rs.48,400x5=Rs.2,42,000/-. Likewise, 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 claimants, on account of death of Pritpal Singh, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.11,49,120/-**
Loss of consortium	**:**	**Rs.2,42,000/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.14,27,420/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.14,27,420-5,86,000=Rs.8,41,420/-**.

In both the appeals, on the enhanced amount of the compensation, as now worked upon, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of respective appeals, 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 in FAO-10336-2014, appellant-claimant No.1 is held entitled to Rs.3,77,240/-, appellants-claimants No.2 and 3 (children) are held entitled to

Rs.1,50,000/- each and appellants-claimants No.4 and 5 (parents) are held entitled to Rs.1,00,000/- each. Similarly, in FAO-2338-2015, out of the enhanced amount, appellant-claimant No.1 is held entitled to Rs.3,41,420/-, appellants-claimants No.2 and 3 (children) are held entitled to Rs.1,50,000/- each and appellants-claimants No.4 and 5 (parents) are held entitled to Rs.1,00,000/- each.

Accordingly, the impugned Awards dated 28.03.2014, stand modified, to the extent, as indicated aforesaid. The residue terms of the Awards, as ordered by learned Tribunal, shall remain the same.

With the above observations, both the appeals stand allowed.

August 23, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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