IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1729-2015 (O&M)
Date of Decision: December 17, 2024

Sandeep Grover and another

...Appellants

VERSUS

Inderjit Singh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.K.B.Raheja Advocate
for the appellants.

Mr.Shubham Gupta, Advocate for
Mr.R.K.Bashamboo, Advocate
for respondent No.2.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Prem Sagar Grover, in a motor vehicular accident, which took place on 14.03.2013.

On appraisal of the evidence adduced, while holding the accident to have been caused due to rash and negligent driving of truck bearing registration No.PB-05W-9278, driven by respondent No.1-Inderjit Singh, learned Tribunal had granted compensation to the extent of Rs.5,00,000/- to the appellants-claimants.

Being dissatisfied with the extent of compensation awarded, the appellants-claimants, who are son and widow of the deceased, have filed the present appeal for seeking enhancement of the compensation.

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.

It is categoric claim of the appellants-claimants that deceased Prem Sagar Grover was running a cloth merchant shop in the name and style of ‘Prem Di Hatti’ and he used to earn Rs.2,50,000/- per annum. He used to maintain the claimants by spending approximately Rs.20,000/- per month.

Appellant-claimant No.1-Sandeep Grover, son of the deceased had stepped into witness box as CW-1 and deposed about the manner of taking place of the accident and their dependency upon the deceased and also proved the post-mortem report Ex.CW1/C, certified copy of FIR Ex.CW1/D and income tax returns for the assessment year 2012-13 Ex.CW1/E and for the assessment year 2011-12 Ex.CW1/F.

However, considering the evidence coming on record and also relationship of the appellants-claimants with deceased, learned Tribunal concluded about the appellants-claimants to be dependent upon the deceased Prem Sagar Grover and on the basis of the income tax returns, proved in evidence, concluded about earning of the deceased to be Rs.1,50,000/- per annum and out of the same, deduction was made to the extent of 1/3rd, towards ‘personal expenses’ and loss of dependency was taken as Rs.1,00,000/- per annum. Considering the age of the deceased to be 75 years, multiplier of ‘5’ was applied and the compensation was worked upon as Rs.5,00,000/-.

Throughout the arguments, learned counsel for the appellants submitted that assessment of the income made by learned Tribunal is on lesser side. In fact, reference is made to the income tax returns Ex.CW1/E and Ex.CW1/F. Ex.CW1/E is the income tax return for the assessment year 2012-2013, which reveals about the earnings of the deceased to be Rs.1,72,000/- per annum, whereas, Ex.CW1/F is the income tax return for the assessment year 2011-2012, which reveals about the earning of the deceased to be Rs.1,68,341/- per annum. However, the work on of the compensation, as done by learned Tribunal, do call for re-determination.

However, it is pertinent to mention that during the course of arguments, learned counsel for the insurance company has also pleaded that appellant-claimant No.1-Sandeep Grover is the major son of the deceased and is married and having children. Therefore, being adult, he has his own income and he cannot be taken to be dependent upon the deceased. However, the submission aforesaid, is not tenable.

In this regard, suffice to make reference to the in ***National Insurance Company Limited v. Birender [(2020) 11 SCC 356]***, wherein, while dealing with the subject, as to whether the adult legal representatives, having their own income, can be said to be dependents, are entitled to compensation, under the head of ‘loss of dependency’, it was observed that legal representatives of the deceased have a right to apply for compensation and it would be the bounden duty of the Tribunal, to consider the application, irrespective of the fact, whether the concerned legal representative was fully dependent upon the deceased and not to limit the claim towards conventional heads only.

In this regard, learned Tribunal had correctly made an observation that the claimants were dependent upon the income of the deceased. Reference has been made to cross-examination CW-1 Sandeep Grover, son of the deceased, who specifically deposed that he is married and having two children. Further he deposed that he had joint mess with his mother. His mother is aged about 70 years and that the school fees of his children, was being paid by his father along with other household goods.

Thus, the evidence, brought on record, would suggest that claimant Sandeep Grover was largely dependent upon the earnings of his deceased father and was also staying with him. Hence, he was dependent upon the deceased and therefore, he along with his mother, is entitled to compensation, on the count of 'loss of dependency'.

At the very outset, it is pertinent to mention that income tax return is a reliable piece of evidence and the same, as such, cannot be overlooked by learned Tribunal. Ex.CW1/E is the income tax return for the assessment year 2012-2013, which reveals about the earnings of the deceased to be Rs.1,72,000/- per annum. Anyhow, the earlier income tax return of the previous year is Ex.CW1/F, which shows the earning of the deceased to be Rs.168,341/- per annum. These income tax returns show about progressive outcome of the business transacted by the deceased. The enhancement in the latest income tax return is not such, which raises doubt about exaggerated figure, having come forth about the earnings of the deceased.

However, learned Tribunal, while overlooking the extent of income depicted in the income tax return, had erroneously considered the earnings of the deceased as Rs.1,50,000/- per annum. No reason, as such, was assigned for taking earnings on lesser side, as coming forth in the income tax returns.

Considering the same, now, for all intents and purposes, while relying upon the income tax returns, in the minimum, considering the age of the deceased, very proximate to the reality, the earnings of the deceased are taken to be Rs.1,70,000/- per annum. Very rightly, deduction to the extent of 1/3rd has been made by learned Tribunal, on the count of 'personal expenses', in view of number of dependents. Taking it to be so, the loss of dependency, comes to be Rs.1,70,000-56666(1/3rd)=Rs.1,13,334/- per annum.

So far as, the application of multiplier is concerned, learned Tribunal had applied the multiplier of '5', which is so rightly applied. Thus, while applying the same, the loss of dependency, works out to be Rs.113334x5=**Rs.5,66,670/-**.

Besides the same, as per ***Pranay Sethi's case (supra)***, under the conventional heads, the appellants-claimants are entitled to compensation on the counts 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.

As per ***Pranay Sethi's case (supra)***, the compensation, ought to be paid to the dependents on the count of 'loss of consortium', was to the extent of Rs.40,000/-. However, with the enhancement clause of 10%, after every three years of the passing of the judgment, the compensation, on the aforesaid count, works out to be, Rs.48,400/- to each of the dependents i.e. Rs.48400x2=**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 Prem Sagar Grover, is re-computed, as herein given:-

Loss of dependency	:	**Rs.5,66,670/-**
Loss of consortium	:	**Rs.96,800/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.6,99,770/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.6,99,770-5,00,000=Rs.1,99,770/-**. On the enhanced amount of the compensation i.e. **Rs.1,99,770/-**, 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 19.12.2013 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.

December 17, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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