IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4321-2014 (O&M)
Date of Decision: July 19, 2024

Baj Singh and others

...Appellants

VERSUS

Satnam Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Khushagra Mahajan, Advocate
for the appellants.

None for respondent No.1.

Mr.Punit Jain, Advocate
for respondent No.3.

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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 Raj Bala, in a motor vehicular accident, which took place on 20.06.2011.

On appraisal of the evidence, coming on record, learned Tribunal had awarded compensation to the extent of Rs.46,48,900/-, to the appellants-claimants.

At the very outset, it is pertinent to mention that the factum and manner of taking place of the accident, as well as the liability, so fastened upon the respondents is concerned, no appeal, as such, has been filed by the respondents, to dispute the same. Hence, there is no necessity to further dwell upon these aspects.

Besides, appellant-claimant No.1 Baj Singh, who is husband of the deceased, various other witnesses were also examined by the claimants. PW-3 Daljit Singh, Manager, Cooperative Bank and PW-4 Bachitter Singh, deposed about deceased Raj Bala to be working as Assistant Manager in Tarn Taran Central Cooperative Bank. The salary certificate of deceased for the month of June 2011 has been proved as Ex.P3, which reflects about the gross salary of the deceased as Rs.48,368/-, the annual whereof, comes to be Rs.5,80,416/-.

Considering this extent of annual income of the deceased, as per prevalent income tax slab, at the relevant time, considering the basic exemption limit for the female employees, to be to the extent of Rs.2 lakh, the income tax for next subsequent amount upto Rs.5 lakh was 10% i.e. Rs.30,000/- and from Rs.5,00,000/- to Rs.8,00,000/- (in the present case Rs.5,00,000-5,80,416/-) the tax was 20% i.e. Rs.16,083/-. Besides the same, the education cess was deducted to the extent of 3%, on the tax amount of Rs.46083/-, which was Rs.1383/-. Thus, taking into consideration the aforesaid tax liability, the tax payable was worked upon as Rs.47,466/- (Rs.46083+Rs.1383). After said deduction of the aforesaid amount from the annual income, the residue amount was taken as Rs.5,32,950/-.

Deduction of 1/3rd was made on the ground of 'personal expenses', which was to the extent of Rs.1,77,650/- and the loss of dependency was worked upon Rs.532950-177650=Rs.3,55,300/-. Upon this amount, multiplier of '13' was applied and the compensation was worked upon as Rs.46,18,900/-. An amount of Rs.10,000/- was awarded on the count of 'love and affection' and another Rs.10,000/- as 'funeral expenses'. Besides the same, Rs.10,000/- was granted, on the count of 'loss of consortium'. Thus, in total, the compensation awarded was to the extent of Rs.46,48,900/-. Out of the awarded amount Rs.90,000/- in lumpsum was granted to applicant-Baj Singh, towards love and affection.

Out of the aforesaid amount, learned Tribunal had awarded an amount of Rs.1 lakh, to be granted to husband-Baj Singh and the residue amount was apportioned in the ratio of 50% to claimant Baj Singh and 25% each to claimants Jobanpreet Singh and Vipanpreet Singh (children of the deceased). Interest was granted to the extent of 7% p.a.

However, the compensation so worked upon, do call for re-determination, as per prevalent law.

From the salary certificate Ex.P3, it is evident that monthly earnings of the deceased, soon before the accident was Rs.48,368/-, annual whereof, comes to be Rs.5,80,416/-. As per the income tax slab, prevalent at the relevant time, learned Tribunal had correctly calculated the income tax, as observed aforesaid and the residue income was worked upon as Rs.5,32,950/-.

So far as, the age of the deceased is concerned, suffice to consider the salary certificate, which has been proved on record as Ex.P3, which contains the recital of the date of birth to be 01.04.1966. As such, on the date of accident, i.e. 20.06.2011, deceased was 45 years old. As per guidelines laid down in ***Pranay Sethi's case***, addition of 30%, ought to be

National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009, made, on the count of ‘future prospects’. Thus, the annual income of the deceased is worked upon as Rs.532950+159885(30%)=**Rs.6,92,835/-**.

Looking at the number of dependents, as per ***Sarla Verma’s case***, the deduction ought to be made to the extent of 1/3rd on the count of ‘personal expenses’ and after deducting the same, the loss of dependency is worked upon as Rs.692835-230945(1/3rd)=**Rs.4,61,890/-**.

So far as, the application of multiplier is concerned, learned Tribunal had applied the multiplier of ‘13’. However, considering the age of the deceased to be 45 years, as per ***Sarla Verma’s case (supra)***, the appropriate and suitable multiplier, to be applied is ‘**14**’ and while applying the same, the loss of dependency, works out to be Rs.461890x14= **Rs.64,66,460/-**.

At this juncture, it is pertinent to mention that even though, learned Tribunal had granted compensation under the conventional heads, like ‘love and affection’, ‘funeral expenses’, ‘loss of consortium’, but however, 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. Even, it is held in ***Magma’s case (supra)*** that ‘loss of love and affection’ is comprehended in ‘loss of consortium'. Hence, there is no justification to award compensation towards loss of love and affection, as a separate head.

As per ***Pranay Sethi’s case (supra)***, the compensation, ought to be paid to the claimants, on the count of ‘loss of consortium’, was to the

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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 claimants 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 Raj Bala, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.64,66,460/-**
Loss of consortium	**:**	**Rs.1,45,200/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.66,47,960/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.66,47,960-46,48,900=Rs.19,99,060/-**. On the enhanced amount of the compensation i.e. **Rs.19,99,060/-**, 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.

The compensation amount already awarded shall be apportioned as ordered by learned Tribunal. However, out of the enhanced amount, as now awarded, appellants-claimants No.2 and 3 are held entitled to Rs.5,00,000/- each and appellant-claimant No.1-Baj Singh is held entitled to residue amount of Rs.9,99,060/-.

Accordingly, the impugned Award dated 15.11.2013 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.

July 19, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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