

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6632-2016 (O&M)
Date of Decision: April 25, 2024

Abdul Mazid and another
...Appellants

VERSUS

Mohd. Imran and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Gaurav Tyagi, Advocate
for the appellants.

Mr.Rajbir Singh, Advocate
for respondent No.3.

Mr.Rajesh Goyal, Advocate
for respondent No.4.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, assailing the Award dated 06.08.2016 passed by learned Motor Accident Claims Tribunal, on account of death of Ibrahim, in a motor vehicular accident, which took place on 03.08.2014.

Learned Tribunal had passed consolidated Award, vis-a-vis, three claim petitions, which related to the death of Ibrahim and Yogesh @ Jogesh, in the accident in question.

Claim petition No.36 of 2014 was filed by Smt.Shanno, widow of deceased Ibrahim. Claim petition No.111 of 2015 was filed by Smt.Pinki

and others, on account of death of Yogesh @ Jogesh and claim petition No.110 of 2015 was filed by parents (present appellants) of deceased Ibrahim, to claim compensation.

Vis-a-vis, death of Ibrahim, learned Tribunal had worked upon the compensation to the extent of Rs.11,38,680/-. Out of the said amount, Smt.Shanno, widow of deceased Ibrahim was held to be entitled to 50% amount, whereas, parents of the deceased Ibrahim were held entitled to residue 50% of Rs.11,38,680/-.

Feeling aggrieved by the extent of compensation, so worked upon as well as the compensation granted to Smt.Shanno, parents of the deceased have filed the present appeal.

So far as, fact of the accident, manner of taking place of the same as well as the liability, so fastened upon the respondents No.1 to 3, is concerned, it is pertinent to mention that none of the respondents, who were made liable, have filed any appeal, to assail the liability, so fastened upon them. Consequently, this aspect, as such, warrants no further judicial scrutiny.

Be it noted that even Smt.Shanno, wife of deceased Ibrahim, has not filed any appeal for seeking enhancement of compensation. Rather, it is only the parents of deceased, who have come forth, to assail the extent of compensation granted to Smt.Shanno and also sought enhancement of compensation.

Before coming to the number of dependents, it is pertinent to mention that the appellants-claimants assert about Smt.Shanno, to be not the widow of deceased Ibrahim. However, relating to the same, no satisfactory

evidence, at the instance of the appellants has been led. Smt.Shanno had filed a separate claim petition, thereby asserting herself to be widow of deceased Ibrahim and the same was also decided vide impugned Award. Therein, Smt.Shanno had stepped into witness box as PW-1 and her sworn testimony is PW-1/A, wherein, she has categorically stated about herself to be legally wedded wife. Though, besides herself, claimant No.2, who was stated to be new born baby of deceased Ibrahim was also mentioned, but however, no satisfactory evidence with regard to the birth of the child, as such, from this wedlock, was led and consequently, learned Tribunal had granted compensation, only to Smt.Shanno.

To counter the said claim, no satisfactory evidence, as such, was led by the appellants-claimants. Even though, appellant-Abdul Mazid himself stepped into witness box as PW-4 and his sworn testimony in the form of affidavit is Ex.PW4/A, but therein, there is no mention made about the denial of factum of marriage of Ibrahim with Shanno. In fact, no word has been stated about the appellants-claimants to be having no relationship with Shanno. In these circumstances, it is pertinent to mention that while facing cross-examination, PW-4 Abdul Mazid has admitted a suggestion to be correct that Shanno is legally wedded wife of his son Ibrahim. Such being the position, learned Tribunal had rightly held Smt.Shanno to be entitled to compensation, on account of death of Ibrahim. Even the apportionment done by learned Tribunal is just and appropriate. Thus, on this count, the submission made to deprive Shanno of the compensation, on account of death of Ibrahim, is not tenable.

Now, coming to the earnings of the deceased.

From the evidence, brought on record, it stands established that even though, the appellants-claimants had asserted about Ibrahim to be running milk dairy in the village and earning Rs.20,000/- per month, but however, the same never stood established and learned Tribunal had appropriately considered deceased Ibrahim to be a labourer and on the basis of the notification, prevalent at the relevant time i.e. in the month of August 2014, had taken the earnings of the deceased, as unskilled labourer to be Rs.5639.50, which was rounded off to Rs.5640/-.

However, to the aforesaid amount, addition on the count of 'future prospects' ought to be made. Considering the age of the deceased to be 21 years, as per *Pranay Sethi's case*, addition ought to be made to the extent of 40%. Making it to be so, the monthly income of the deceased is worked upon as $\text{Rs.5640} + \text{Rs.2256}(40\%) = \text{Rs.7896/-}$.

Considering the number of dependents of the deceased, 1/3rd 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 $\text{Rs.7896} - 2632 = \text{Rs.5264/-}$, annual whereof, comes to be Rs.63,168/-.

Considering the age of the deceased to be 21 years, as per *Sarla Verma's case*, appropriate and suitable multiplier, to be applied is '18', as applied by learned Tribunal and by applying the same, the loss of dependency, works out to be $\text{Rs.63168} \times 18 = \text{Rs.11,37,024/-}$.

Besides the aforesaid amount, it is pertinent to mention that under the conventional heads, the amount granted by learned Tribunal is on higher side. An amount of Rs.1 lakh has been given, towards consortium. Another amount of Rs.1 lakh is given towards love and affection and

Rs.25,000/- had been granted as funeral expenses. These amounts, as such, are on higher side. But anyhow, as per prevalent law, the parents of the deceased, besides the widow, are entitled to Rs.48,400/- each, on the count of ‘parental consortium’ and widow is entitled to ‘spousal consortium’, to the same extent. Even though, learned Tribunal had granted Rs.1 lakh towards ‘love and affection’, but however, as per *‘Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130’*, 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. Further, as per *Pranay Sethi's case (supra)*, 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 Ibrahim, is re-computed, as herein given:-

Loss of dependency	:	Rs.11,37,024/-
Loss of consortium	:	Rs.1,45,200/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.13,18,524/-

However, the apportionment of the compensation, to the widow and the parents of deceased Ibrahim, as done by learned Tribunal is maintained.

As such, the earlier compensation granted was Rs.11,38,680/-, which now stands enhanced to **Rs.13,18,524/-**. This also contains the amounts granted, on the count of ‘loss of consortium’ to the parents as well as widow of the deceased and the amount, as granted under the heads of

‘funeral expenses’ and ‘love and affection’ has been reduced, as aforesaid. In the given circumstances, to the extent of 50% of the enhanced amount, respondent No.4-Smt.Shanno, wife of deceased Ibrahim is also held to be beneficiary and thus, entitled to claim the aforesaid amount, even though, she has not filed the appeal.

On the enhanced amount, to the extent of **Rs.1,79,844/-**, the appellants-claimants and respondent No.4, 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 residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

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

The pending civil misc. applications, if any, shall stand disposed of.

April 25, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No