IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7742-2015 (O&M)
Date of Decision: September 18, 2024

Roshni Devi and another

...Appellants

VERSUS

Bansi Lal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Mayank Gupta, Advocate
for the appellants.

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

****

ARCHANA PURI, J.

The appellants-claimants have filed the present appeal, thereby seeking enhancement of the compensation granted by learned Motor Accident Claims Tribunal, on account of death of their son, namely Subhash, in a motor vehicular accident, which took place on 17.10.2010.

On appraisal of the evidence, brought on record, vide Award dated 17.02.2012, it was concluded by learned Tribunal that accident had taken place, due to rash and negligent driving by respondent No.1-Bansi Lal, while driving car bearing registration No.HR-70H-0054 and the same resulted into death of Subhash. Even though, it was pleaded case of the appellants-claimants about Subhash to be a milkman and indulging in sale and purchase of buffaloes and was earning Rs.20,000/- per month, but

VINEET GULATI
2024.09.20 15:43
I attest to the accuracy and
authenticity of this document
Chandigarh

however, considering the evidence, produced on record, learned Tribunal, while taking the income of an un-skilled labourer, as not less than Rs.4500/- per month, assessed the notional earnings of deceased as Rs.4500/- per month, annual whereof, was Rs.54,000/-. Thereupon, considering Subhash to be a bachelor, deduction to the extent of 50% was made, towards 'personal expenses' and the loss of dependency was taken as Rs.27,000/- per annum. While considering the age of Mani Ram, father of the deceased to be 50 years, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, multiplier of '13' was applied and the compensation was worked upon as Rs.3,51,000/-. Besides the same, an amount of Rs.10,000/- was granted, on the count of 'transportation and last rites charges'. Even, another amount of Rs.50,000/- was granted, towards 'loss of prospective happiness, pain and sufferings' undergone by the claimants. Thus, total compensation of Rs.4,11,000/- was granted to the claimants. The liability was fastened upon the driver, owner and insurer of the offending vehicle, as joint and several.

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 dispute the same. Hence, there is no necessity to further dwell upon these aspects.

However, the 'work on' of the compensation aforesaid, do call for re-computation.

From the evidence on record, it stands established that deceased Subhash was 25 years old. Even though, it was pleaded case of the

VINEET GULATI
2024.09.20 15:43
I attest to the accuracy and
authenticity of this document
Chandigarh

appellants-claimants that deceased was working as a milkman and indulging in sale and purchase of buffaloes, but however, no satisfactory evidence, with regard to the vocation, so followed by the deceased, was brought on record. In the given circumstances, learned Tribunal, while taking into consideration earnings of un-skilled worker to be Rs.4500/- per month, at the relevant time, had appropriately taken the notional earnings of deceased Subhash as Rs.4500/- per month, annual whereof, comes to be Rs.54,000/-.

Very true, as per ***Sarla Verma's case (supra)***, considering the deceased to be a bachelor, deduction to the extent of 50%, on the count of 'personal expenses', ought to be made and as such, the annual loss of dependency comes to be Rs.27,000/-.

Considering the age of the deceased, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 40%, ought to be made, on the count of 'future prospects'. Thus, the annual income of the deceased is worked upon as Rs.27000+10800=**Rs.37,800/-**.

It is pertinent to mention that in the case of death of a human being, as per ***Pranay Sethi's case (supra)***, it is the age of the deceased, which ought to be taken into consideration, for application of the appropriate multiplier. In the present case, learned Tribunal had considered the age of father of the deceased and applied the multiplier. Thus, in the light of the principle laid down in ***Pranay Sethi's case (supra)*** and as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**18**' instead of '13', and thus, by applying the same, the loss of dependency, works out to be Rs.37800x18=**Rs.6,80,400/-**.

VINEET GULATI
2024.09.20 15:43
I attest to the accuracy and
authenticity of this document
Chandigarh

Even though, learned Tribunal had granted Rs.50,000/- towards 'loss of prospective happiness, pain and sufferings' undergone by the claimants, but however, as per principle laid down in ***Pranay Sethi's case (supra)***, there is no such 'Head', under which the compensation is to be granted and thus, the same needs to be denied.

However, as per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, the dependents of the deceased/claimants, are entitled to 'filial' consortium. Considering the same, as per ***Pranay Sethi's case (supra)***, an amount of Rs.40,000/- is required to be granted to the dependents, which also called for further enhancement to the extent of 10%, after period of every three years of passing of the judgment and taking it to be so, the compensation, on the count of 'loss of consortium', at present, works out to be Rs.48,400/- to each of the claimants i.e. Rs.48400x2=**Rs.96,800/-** and 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 appellants-claimants, on account of death of Subhash, is computed, as herein given:-

Loss of dependency	:	**Rs.6,80,400/-**
Loss of consortium	:	**Rs.96,800/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.8,13,500/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.8,13,500-4,11,000=Rs.4,02,500/-**. On the enhanced amount of the compensation i.e.

VINEET GULATI
2024.09.20 15:43
I attest to the accuracy and authenticity of this document
Chandigarh

Rs.4,02,500/-, 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 17.02.2012 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.

September 18, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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

VINEET GULATI
2024.09.20 15:43
I attest to the accuracy and
authenticity of this document
Chandigarh