IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-247-2017 (O&M)
Date of Decision: February 12, 2024

Ranjit Kaur and another

...Appellants

VERSUS

Punjab Roadways and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Anil Kumar Spehia, Advocate
for the appellants.

Mr.Vinay Kumar Gupta, AAG, Punjab
for respondents No.1 and 2.

Respondent No.3-proceeded against ex parte.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation awarded by learned Tribunal, on account of death of Balwinder Singh, in a motor vehicular accident, which took place on 14.10.2014.

On appraisal of the evidence, brought on record, vide impugned Award dated 18.07.2016, learned Tribunal had granted compensation, on account of death of Balwinder Singh, who was aged 22 years, to the extent of Rs.13,28,000/- and the liability was fastened, jointly and severally upon respondents No.1 to 3.

So far as, the factum and manner of taking place of the accident is concerned, none of the respondents, upon whom, the liability, as such, was fastened, has filed the appeal and on this account, the aforesaid aspects, as such, does not warrant any further scrutiny. Be it noted that, appeal has been filed only by the parents of the deceased to seek enhancement.

Learned counsel for the parties heard.

It is categoric claim of the appellants-claimants that on 14.10.2014, Balwinder Singh had sustained fatal injuries, on account of accident having taken place with bus bearing registration No.PB-12H-2554, driven by respondent No.3-Sher Singh, in a rash and negligent manner. Relating to the said accident, FIR No.145 dated 14.10.2014 under Sections 279, 337, 427 and 304-A IPC was registered with Police Station, Sadar, Hoshiarpur, against respondent No.3-Sher Singh. It is further averred in the claim petition that Balwinder Singh was 22 years old, at the time of accident and he was unmarried and he was working as painter on contract basis and earning Rs.12,000/- per month.

However, the respondents had denied the vocation, so followed by deceased as well as extent of his earnings.

Learned Tribunal had though accepted the age of the deceased to be 22 years, in the light of the evidence brought on record, but however, reached the conclusion that there is no satisfactory evidence, coming on record, with regard to occupation of the deceased and extent of his income and in this manner, treated the deceased as labourer and on account of minimum wages, prevalent at the relevant time as unskilled worker, took his monthly earnings as Rs.5695/-, which was rounded off as Rs.5,700/-. To the same, addition to the extent of 30% was made, on account of future prospects. Resultantly, the earnings were worked upon as Rs.7400/- and annual was taken as Rs.88,800/-. On account of deceased being bachelor, 50% was deducted towards his personal expenses and thus, loss of earning was worked upon as Rs.44,400/- per annum. Considering the age of the deceased, multiplier of '17' was applied and loss of dependency was worked upon as Rs.7,54,800/-. Besides the same, another sum of Rs.25,000/- was granted towards 'funeral expenses' and Rs.6,000/- was granted towards 'loss of estate'. In this manner, the compensation was granted to the extent of Rs.7,85,800/-. Besides the same, on account of expenditure incurred on the treatment of the deceased, bills whereof were proved, another sum of Rs.5,42,200/- was granted. Thus, totalling the amount of compensation to be Rs.13,28,000/-.

However, as per prevalent settled law, the compensation, so worked upon by learned Tribunal, calls for re-determination.

So far as, the age of deceased is concerned, on the basis of the evidence, has been appropriately taken as 22 years. It is categoric claim of the appellants-claimants that deceased was working as a Painter. Mother of deceased had stepped into witness box as AW-1 and had categorically stated about her son to be a Painter and his earnings to be Rs.12,000/- per month. However, this testimony of the mother, as such, has been discarded by learned Tribunal. But however, no reason, as such, has been assigned, as to why reliance could not be placed upon the categoric testimony of mother of the deceased. To establish the vocation as Painter, but for the oral testimony, it is difficult to hunt for the documentary evidence. It should always be kept in mind that indulgence of people, in such kind of meagre sources of, like Painter, it is difficult to gather any evidence, about their earnings, more particularly, when their earnings are to such an extent, by and large, paid in cash and also spent in cash, on daily basis.

In the light of the same, the deceased, as such, ought to be considered as Painter and therefore, he was skilled worker. As per the notification issued by the Labour Commissioner, Punjab, minimum wages, at the prevalent time was Rs.8337/- per month. Keeping in view the tendency of the Painters to do extra time to carry on the work of painting, the minimum earnings of the deceased, as such, can conveniently, be taken to be Rs.9,000/- per month.

Considering the age of the deceased to be 22 years, as per ***Pranay Sethi's case***, addition of 40% ought to be made, on the count of 'future prospects'. Making it to be so, the income of the deceased is worked upon as Rs.9000+Rs.3600(40%)=**Rs.12,600/-**.

Considering the deceased to be bachelor at the relevant time, as per ***Sarla Verma's case,*** the deduction to the extent of 50% has to be made, on the count of 'personal expenses'. Thus, making this deduction, the loss of dependency comes to be Rs.12600-6300=Rs.6,300/-, annual whereof, comes to be Rs.75,600/-

Considering the age of the deceased, as per ***Sarla Verma's case,*** appropriate and suitable multiplier, to be applied is '**18**' and by applying the same, the loss of dependency, works out to be Rs.75600x18= **Rs.13,60,800/-**.

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Besides the same, the amounts are to be paid under the conventional heads, such like, loss of consortium, loss of estate and funeral expenses as held in ***Pranay Sethi's case (supra)***. The concept of consortium, has been dilated in detail in ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, and as per the same, the claimants are entitled to compensation, on the loss of consortium, be it 'parental', 'spousal' or 'filial'.

In consonance with the observations made in ***Pranay Sethi's case (supra)***, while making addition of 10% under the heads of 'loss of consortium', 'loss of estate' and 'funeral expenses', after every three years, at present, the amount payable, on all the three aforesaid heads, is to the extent of **Rs.48,400/-, Rs.18,150/-** and **Rs.18,150/-**, respectively.

Besides the aforesaid, it is pertinent to mention that accident had taken place on 14.10.2014, but however, soon after the accident, the deceased remained admitted in the hospital and he died on 18.12.2014. He was extended treatment, bills whereof have been proved by Dr.Aman Kapoor, which are Ex.A2 to Ex.A80, amounting to Rs.5,42,204/-, which has been appropriately considered and granted by learned Tribunal, as Rs.5,42,200/-

Considering the same, the compensation payable to dependents, on account of death of Balwinder Singh, is re-computated, as herein given:-

Loss of dependency	:	**Rs.13,60,800/-**
Loss of consortium	:	**Rs.96,800/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Medical Bills	:	**Rs.5,42,200/-**

Total : Rs.20,36,100/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.20,36,100-13,28,000=Rs.7,08,100/-**. On the enhanced amount of the compensation i.e. **Rs.7,08,100/-**, 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 apportionment and residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

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

February 12, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

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