IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1347-2008 (O&M)
Date of Decision: March 19, 2025

Saroj and others

...Appellants

VERSUS

Subhash and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ashwani Gaur and Mr.Kapil Sharma, Advocates for the appellants.

Respondents No.1 and 2 proceeded against ex-parte.

Mr.Akhil Saini, Advocate for Mr.Pardeep Goyal, 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 Sukhbir @ Jagdish, in a motor vehicular accident, which took place on 16.09.2005.

Suffice to consider that learned Tribunal, on appraisal of the evidence, concluded about the accident to have taken place, due to rash and negligent driving of truck bearing registration No.HR-46A-7784, driven by respondent No.1-Subhash and the same resulted into injuries on the person of Sukhbir @ Jagdish, as a result whereof, he had died instantaneously, at the spot of accident.

Be it noted that none of the respondents, who were held liable to pay the compensation, have filed any appeal to assail the findings. It is only the appellants-claimants, who have filed the appeal to seek enhancement of the compensation.

It is pleaded case of the appellants-claimants that deceased Sukhbir @ Jagdish was working as an Accountant with M/s Ashu Traders and M/s Navdeep Bore & Construction Company and was getting Rs.8000/- per month from the aforesaid companies and was also having an income of Rs.5000/- per month, from the sale of milk. PW-3 Saroj, Proprietor of M/s Ashu Traders and PW-4 Sulekh Kumar, Proprietor of M/s Navdeep Bore & Construction Company, Sonipat, have proved the salary certificates Ex.PD and Ex.PK respectively, which states about Sukhbir @ Jagdish, to be getting salary of Rs.5000/- per month and Rs.3000/- per month, respectively, from the aforesaid companies, as part-time accountant.

However, very appropriately, learned Tribunal has not placed reliance solely on the salary certificates and discarded the same, on account of their being no supporting documents, regarding the job pursued with the aforesaid companies. Anyhow, Sukhbir @ Jagdish was concluded to be an educated person and having background of accountancy. Considering the same, his earnings were taken as Rs.4000/- per month, annual whereof is Rs.48,000/-. 1/3rd was deducted as 'personal expenses' and the contribution towards the family was taken as Rs.32,000/-.

Considering the deceased to be 49 years old, multiplier of '13' was applied and the compensation was worked upon as Rs.4,16,000/-. Besides the same, another amount of Rs.14,000/- was granted as 'funeral expenses'.

In total, the compensation was worked upon as Rs.4,30,000/-.

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

So far as, the extent of earnings of the deceased is concerned, the same has been appropriately taken by learned Tribunal as Rs.4,000/- per month. However, to the said amount, considering age of deceased to be 49 years, addition of 25%, ought to be made, on the count of 'future prospects', which comes to be Rs.1000/-. After making such addition, the earnings of the deceased, comes to be Rs.5000/- per month. Considering the number of dependents to be five in number, the deduction of 1/4th, ought to be made, instead of 1/3rd, as done by learned Tribunal. Thus, the loss of dependency comes to be Rs.5000-1250(1/4th)=Rs.3750/- per month, annual whereof, comes to be Rs.45,000/-. Considering the age of the deceased, the multiplier of '**13**' has been appropriately applied by learned Tribunal. Thus, by applying the same, the loss of dependency comes to be **Rs.45000x13=Rs.5,85,000/-.**

Besides the aforesaid, on the count of '**loss of consortium**', all the appellants-claimants, are entitled to prevalent amount of Rs.48,400/- each i.e. Rs.48400x5=**Rs.2,42,000/-** and they are also entitled to compensation, on the counts of '**loss of estate**' as well as '**funeral expenses**', which is **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to appellants-claimants, on account of death of Sukhbir @ Jagdish, is re-computed, as herein given:-

Loss of dependency **:** **Rs.5,85,000/-**

Loss of consortium	**:**	**Rs.2,42,000/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.8,63,300/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.8,63,300-4,30,000=Rs.4,33,300/-**. On the enhanced amount of the compensation i.e. **Rs.4,33,300/-**, 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.

Out of the total compensation, as now worked upon, i.e. **Rs.8,63,300/-**, appellants-claimants No.1 is held entitled to **Rs.3,63,300/-**, whereas, appellants-claimants No.2 and 3 are held entitled to **Rs.1,50,000/-** each and appellants No.4 and 5 are held entitled to **Rs.1,00,000/-** each. However, the compensation, if any, disbursed to the appellants-claimants, at any earlier stage, shall be adjusted accordingly.

Accordingly, the impugned Award dated 04.01.2008 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.

March 19, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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