IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-10361-2014 (O&M)
Date of Decision: February 04, 2025

Meenu Devi and others

...Appellants

VERSUS

Som Dutt and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Devansh Khanna, Advocate for
Mr.Vaibhav Narang, Advocate
for the appellants.

Mr.Pradeep Kumar, Advocate
for respondent No.3

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, assailing the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, vide Award dated 31.07.2014, vis-a-vis, the death of Vinod Kumar, in a motor vehicular accident, which took place on 01.03.2013.

On appraisal of the evidence brought on record, learned Tribunal had concluded about the accident to have taken place, on account of rash and negligent driving of car bearing registration No.HR-35G-4877, driven by respondent No.1-Somdutt and as a consequence thereof, Vinod Kumar, had died.

Also, further while taking into consideration the date of birth of Vinod Kumar, spelt out as 12.12.1978, from the income tax returns Ex.P4 to Ex.P6, it was concluded that deceased was not less than 33 years. However, the income tax returns Ex.P4 to Ex.P6 were discarded. However, considering the deceased to be an income tax payee, his income was assessed as Rs.8000/- per month. Considering the number of dependents, deduction to the extent of 1/3rd was made, on the count of 'personal expenses' and the annual loss of dependency was worked upon as Rs.5334x12=Rs.64008/-. The multiplier of '13' was applied and the compensation was worked upon as Rs.8,32,104/-. Besides the same, another amount of Rs.20,000/- was granted, on account of transportation and last rites. An amount of Rs.1,00,000/- was also granted to claimant No.1 as consortium and another amount of Rs.20,000/- was granted towards 'love and affection'.

The liability to pay the compensation was, jointly and severally, fastened upon the respondents i.e. driver, owner and insurer of the offending car. Be it noted that, none of the respondents, who were saddled with the liability, have filed any appeal. As such, there is no necessity to further dwell on the aforesaid aspects.

However, keeping in view the prevalent law, the compensation, so worked upon by learned Tribunal, do call for re-computation.

Throughout the arguments, much emphasis has been laid upon the income tax returns Ex.P4 to Ex.P6. It is the categoric claim of the claimants in the claim petition that deceased was proprietor of M/s Balaji Enterprises, Behror. In the claim petition, what kind of proprietorship it was, nothing, as such was stated. However, it was stated only by Sumitra

Devi, mother of the deceased, when she stepped into witness box as PW-1, about the deceased to be indulging in the business of Khal Binola.

It is pertinent to mention that income tax returns Ex.P4 to Ex.P6 were tendered into evidence. No doubt, income tax returns can be reliable piece of evidence, but however, for taking into consideration the same, these have to be appropriately brought on record. These have been simply brought on record, by recording of statement of the counsel and it does not give anything about the nature of work of the deceased and also, no other document, as such, has come on record, with regard to the running of firm by the name of M/s Balaji Enterprises.

In the given circumstances, learned Tribunal had appropriately not relied upon the said income tax returns to make assessment of the earnings of the deceased. However, keeping in view the fact of deceased being an income tax payee, some guess work was adopted on the attending circumstances and the income was taken as Rs.8000/- per month. At the relevant time of taking place of the accident on 01.03.2013, the minimum wages of un-skilled worker was Rs.5212.15 per month. However, in any case, deceased Vinod Kumar, could not be placed, at par with un-skilled worker. It is not necessary to consider the earnings of the deceased of minimum tier, in the event of no sufficient evidence, with regard to the earnings, coming on record. Considering the fact of deceased to be an income tax payee, learned Tribunal had appropriately assessed the earnings of the deceased as Rs.8000/- per month. Even, if it be so, various counts have been given amiss while making the assessment.

As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and***

anr., 2009(3) RCR (Civil) 77, considering the number of dependents, deduction to the extent of 1/3rd, on the count of 'personal expenses', ought to be made, as done by learned Tribunal and as such, the loss of dependency comes to be Rs.8000-2666=Rs.5,334/-.

On the basis of the date of birth, as spelt out in the income tax returns, so relied upon by the claimants, deceased Vinod Kumar is established to be falling in the age group of 31-35 years. 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' and thus, the income of the deceased is worked upon as Rs.5334+2133=Rs.7,467/-, annual whereof, comes to be **Rs.89,604/-**.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**16**', instead of '13' as applied by learned Tribunal and thus, by applying the same, the loss of dependency, works out to be Rs.89604x16=**Rs.14,33,664/-**.

However, learned Tribunal had granted an amount of Rs.1,00,000/-, on the counts of 'loss of consortium' and Rs.20,000/- on account of transportation and last rites, but this is on higher side. As per ***Pranay Sethi's case (supra)***, the amount on the count of 'loss of consortium' has been fixed as Rs.40,000/-, with clause of enhancement to the extent of 10%, after period of every three years of pronouncement of the judgment and thus, the compensation, at present, works out to be Rs.48,400/-. As per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, the appellants-claimants/dependents are entitled to 'spousal' 'parental' and 'filial'. Thus, on the count of 'loss of consortium', the appellants-claimants are entitled to Rs.48,400x3=**Rs.1,45,200/-**. As per ***Pranay Sethi's case (supra)***, working on the same parameters, even, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Also, it is pertinent to mention that learned Tribunal had granted Rs.20,000/-, on the count of '**loss of love and affection**'. However, in ***Magma's case (supra)***, it is laid down that '**loss of love and affection is comprehended in loss of consortium**' and in this context, it was observed that there is no justification to award compensation towards '**loss of love and affection**', as a separate head, which view was further endorsed in '***United India Insurance Company Limited vs. Satinder Kaur Alias Satwinder Kaur and Others, (2021) 11 SCC 780***'.

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

Loss of dependency	**:**	**Rs.14,33,664/-**
Loss of consortium	**:**	**Rs.1,45,200/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.16,15,164/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.16,15,164-9,42,104=Rs.6,73,060/-**. On the enhanced amount of the compensation i.e.

Rs.6,73,060/-, 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 enhanced amount of compensation, as now worked upon, shall be disbursed to the appellants-claimants, in equal shares.

Accordingly, the impugned Award dated 31.07.2014 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.

February 04, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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