IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) FAO-263-2013 (O&M)

Reliance General Insurance Company Limited

...Appellant

VERSUS

Shivani and others

...Respondents

(ii) FAO-1503-2013 (O&M)

Gurmeet Kaur and others

...Appellants

VERSUS

Amrit Pal Singh @ Amrit Singh and others

...Respondents

(iii) FAO-1878-2013 (O&M)

Shivani and others

...Appellants

VERSUS

Amrit Pal Singh @ Amrit Singh and others

...Respondents

Date of Decision: February 03, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Tajender K. Joshi, Advocate,
for the appellant (in FAO-263-2013) and
for respondent No.3 (in FAOs-1503 and 1878-2013).

Mr.Rishav Jain, Ms.Shivaly Singla,
Ms.Vasudha Sharma and Mr.Varun Jain, Advocates
for the appellants (in FAOs-1503 and 1878-2013) and
for respondents No.1 to 3 (in FAO-263-2013).

Ms.Faheen Bajwa, Advocate for
Mr.Harsh Aggarwal, Advocate
for respondent No.5 (in FAO-263-2013) and
for respondent No.2 (in FAOs-1503 and 1878-2013).

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ARCHANA PURI, J.

These are three appeals, filed by the rival parties to assail the Award dated 21.09.2012 passed by learned Motor Accident Claims Tribunal, on account of deaths of Gurjeet Singh and Aman Goyal, in a motor vehicular accident, which took place on 19.03.2010.

FAO-263-2013 has been filed by the insurance company, for seeking reduction of the quantum of compensation, awarded on account of death of aforesaid persons, whereas, **FAOs-1503 and 1878-2013** have been filed by the appellants-claimants, thereby, seeking enhancement of the compensation.

On appraisal of the evidence, brought on record, vide impugned Award, learned Tribunal concluded about the accident to have taken place on 19.03.2010, on account of rash and negligent driving of truck bearing registration No.PB-13M-5373, driven by respondent-Amrit Pal Singh @ Amrit Singh and Gurjeet Singh as well as Aman Goyal, who were the occupants of the ill-fated car bearing registration No.PB-08Q-1523 and the said accident, resulted into death of Gurjeet Singh and Aman Goyal.

So far as, the manner and taking place of the accident as well as the liability fastened upon the driver, owner and insurer of the offending vehicle is concerned, none of the aforesaid parties have filed any appeal. Even though, appeal has been filed by the insurance company, but it is only for seeking reduction of the compensation awarded to the claimants.

For the convenience of discussion, the parties are referred to as making appearance before learned Tribunal.

Considering the aforesaid, firstly, let us consider of the claim qua death of Gurjeet Singh. It is the specific version of the claimants Gurmeet Kaur and others that deceased Gurjeet Singh was 36 years old and he was working as Senior Engineer in Swaraj Mazda. His salary was asserted to be Rs.32,386/- per month. It is not disputed that as per matriculation certificate, proved in evidence, the date of birth of Gurjeet Singh is established to be 01.12.1973 and thus, learned Tribunal had concluded about the age of deceased Gurjeet Singh to be 37 years, at the relevant time.

However, considering the earnings of deceased Gurjeet Singh to be Rs.33,130/-, 1/3rd was deducted as personal expenses and the residue was worked upon as Rs.22,080/- per month and the annual dependency was worked upon as Rs.2,64,960/-. Taking it to be so, while considering the age, the multiplier of '12' was applied and the compensation was worked upon as Rs.31,79,520/-. To this amount, another amount of Rs.5,000/- was granted as 'funeral expenses' and Rs.5,000/- was granted on account of 'loss of consortium'. Thus, the total compensation of Rs.31,89,520/- was granted to the claimants, qua death of Gurjeet Singh.

So far as, qua death of Aman Goyal, it was asserted by the claimants that he was working as engineer in Swaraj Mazda and was getting salary of Rs.23,617/-. After deduction, his salary came to be Rs.19,530/- per month. After making deduction to the extent of 1/3rd towards personal expenses, the loss of dependency was worked upon as Rs.13,020/- per month and the annual dependency whereof, was taken as Rs.1,56,240/-. Considering the recitals of the matriculation certificate, it was concluded about date of birth of Aman Goyal to be 02.04.1984 and thus, Aman Goyal was concluded to be 26 years old, at the relevant time. Considering the age, the multiplier of '14' was applied and the compensation was worked upon as Rs.21,87,360/-. Besides the aforesaid, another amount of Rs.5,000/- was granted as 'funeral expenses' and further Rs.5,000/- was granted to widow, as 'loss of consortium'. Thus, the total compensation of Rs.21,98,360/- was granted to the claimants, qua death of Aman Goyal.

Definitely, as per the prevalent law, the compensation, so worked upon by learned Tribunal, do call for re-computation, as various counts, to be considered for the 'work on' of the compensation, have been given amiss.

Before working upon the compensation, it is significant to note that learned counsel for the insurance company had laid much emphasis upon Shivani-widow of Aman Goyal, to have got married, within one year of the death of her husband and therefore, it is submitted that she is not entitled to any compensation for the death of her husband. Furthermore, also it is submitted by learned counsel for the insurance company that fathers of both the deceased, as such, cannot be taken to be dependents and therefore, they are not entitled to any compensation. However, suffice to consider that Shivani, who stepped into witness box as PW-5, while facing cross-examination, has admitted about the fact of her re-marriage.

However, the submissions made by learned counsel for the insurance company are not tenable. It is to be noticed that simply because Shivani, widow of deceased Aman Goyal got re-married, could not be a reason to deprive her of the rightly claim.

Re-marriage of widow has nothing to do with her right, which accrued to her to seek compensation, on account of loss, which has accrued to her, as a result of unnatural demise of her husband. Her decision to re-marry is entirely her personal choice and nobody can have say in the same. In this regard, it is essential to make reference to decision rendered in ***Dincy Devassy vs. United India Insurance Company and others, 2019 ACJ 1428***, wherein, it was concluded that right of the widow to claim compensation crystallized upon her husband's life, being tragically snatched away in the motor accident. Therefore, simply because she has now re-married, her claim does not abate.

Considering the same, the Hon'ble Delhi High Court had apportioned the compensation, so worked upon, between the widow as well as the parents of the deceased and held that each of the claimants, shall be entitled to receive equal share in the awarded amount. The aforesaid decision was further challenged by way of filing of Special Leave Petition titled as '***Bridget Irene and another vs. Dincy Devassy and another***', in the Hon'ble Supreme Court. However, it was observed by Hon'ble Apex Court that in the peculiar facts and circumstances of the case, they are not inclined to interfere in this matter and the Special Leave Petition was dismissed.

In ***The Iffco Tokio General Insurance Company Ltd. vs. Smt.Bhagyashri Ganesh Gaikwad and others, 2023 ACJ 1813***, though, much resistance was shown to the compensation to be granted to the widow of the deceased, on account of her re-marriage, but however, said contention was discarded, while observing that after the death of her husband, re-marriage in itself cannot be a taboo to get a compensation. Solely, on account of her being widow of the deceased, is sufficient ground for her entitlement to the compensation.

In ***Gianis W/o. Late Anil Abraham vs. Lazar Manjila S/o. Joy Manjila, 2020(3) ILR (Kerala) 457***, while considering the question of entitlement of the widow of the deceased, in pursuance of her re-marriage, it was observed, as herein given:-

> *"22. It is to be noted that the 1 st appellant would not have thought of a remarriage, but for the untimely death of her husband. It was not a remarriage on account of divorce. The Court has to consider the psychological hurdles that the MACA No.1936/2008 widow will face on account of remarriage. The society is changing. The age old concept of a remarried widow cutting off all relations with the family of her ex-husband, is becoming a story of the past. Fact remains that the 1 st respondent was dependent on the deceased and would have remained so, but for the demise of her husband consequent to the accident. The death has indeed resulted in loss of dependency. After the death of husband, a widow may go for employment and become self-dependent or may opt for remarriage. Either way, the loss of dependency consequent to the death of the husband does not cease merely because she has remarried or became self-reliant. The word dependency and legal representative, therefore, should receive a pragmatic interpretation. While computing compensation for dependency of a widow on the death of her husband under Section 166 of the Motor Vehicles Act, 1988, her remarriage shall not be a decisive factor."*

Thus, in the light of the aforesaid case law, even though, widow Shivani had re-married, but still, she is entitled to compensation. Though, the fact of her re-marriage, as such, can be taken into consideration for working upon the extent of compensation, but however, the compensation, in toto, as such, cannot be denied.

Besides the aforesaid, though learned counsel for the insurance company has laid much emphasis upon the fathers of both the deceased, to be not entitled to any compensation, but however, the submission, so made, is also bereft of merits.

It is pertinent to mention that even though, a person, who may be earning, may not be financially dependent on his son, who has departed from the world, but however, it should be noted that the word '**dependent**' has a different meaning in different connotation. Some may be dependent in terms of money and others may be dependent in terms of service. Thus, dependency is a relevant criteria to claim compensation for loss of dependency. It necessarily does not mean financial only. It also includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency, and so on and so forth, which can never be equated in terms of money. Considering the same, even though, the deceased sons may not be rendering financial assistance to their respective fathers, but however, emotional and psychological dependency upon the young sons, by the fathers, as such, ought to be there and considering the same, both the fathers, ought to be paid the compensation. The emotional dependency of the parents of a young son, who had died, as such, cannot be overlooked and therefore, fathers of both the deceased are also entitled to compensation.

In this backdrop, as observed aforesaid, now let us re-determine the compensation, so worked upon by learned Tribunal.

Firstly, coming to the claim qua death of Gurjeet Singh. From the evidence on record, it stands amply established that deceased Gurjeet Singh was 37 years old and he was working as senior engineer in Swaraj Mazda. The detail of the salary paid to Gurjeet Singh, during his lifetime is Ex.P4 and more particularly, the pay slip of February 2010 reveals that the monthly earnings of the deceased was Rs.37,271.97 and deduction was made to the extent of Rs.4145/-. However, learned Tribunal had erroneously considered the extent of salary, relating to this period. It is pertinent to mention that though, the amount of salary, coming into the hands of deceased had been considered as Rs.37,271.97, but however, it also contained arrears to the extent of Rs.7784/-, which ought to be deducted, as it cannot form part of the salary, which has to be considered for computation of the compensation. After making this deduction, the amount now works upon Rs.29,487/-. Though the deductions in the salary slip are reflected, but however, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, for the purpose of 'work on' of the compensation, actual salary ought to be taken minus tax component. Thus, considering the monthly earnings as Rs.29,487/-, the annual thereof, comes to be Rs.3,53,844/-.

As per the tax slab, prevalent in the year 2009-2010, the income upto Rs.1,60,000/- was exempted from tax. However, from the income bracket of Rs.1,60,000-3,00,000/-, income tax payable was 10%, which is to the extent of Rs.14,000/- in the present case. Furthermore, for the income bracket of Rs.3,00,000-5,00,000/-, the tax payable was 20%. After deduction of Rs.3,00,000/-, in the case of deceased Gurjeet Singh, the residue taxable amount works out to be Rs.53,844/- and therefore, working upon the tax on this amount @ 20%, comes to be Rs.10,768/-. Thus, the total tax payable, comes to be **Rs.24,768/-**. After making deduction of the aforesaid extent of income tax amount, the residue annual income, comes out to be Rs.3,53,844-24,768=Rs.3,29,076/-.

Keeping in view the number of dependents of Gurjeet Singh, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, deduction to the extent of 1/4th, on the count of 'personal expenses', ought to be made instead of 1/3rd, as done by learned Tribunal and as such, the loss of dependency comes to be Rs.329076-82269=Rs.2,46,807/-.

To the aforesaid amount, considering age of deceased Gurjeet Singh, to be 37 years, at the relevant time, addition of 40% ought to be made, on the count of 'future prospects', as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***. Thus, the monthly earnings of deceased, comes to be Rs.246807+98722=Rs.3,45,529/-.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**15**', and thus, by applying the same, the loss of dependency, works out to be Rs.345529x15=**Rs.51,82,935/-**.

Besides the aforesaid, as per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, each of the appellants-claimants are entitled to 'parental', 'spousal' or 'filial' consortium, as required. 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 pronouncement 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.48400x5=**Rs.2,42,000/-** 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 Gurjeet Singh, is re-computed, as herein given:-

Loss of dependency	:	**Rs.51,82,935/-**
Loss of consortium	:	**Rs.2,42,000/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.54,61,235/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.54,61,235-31,89,520=Rs.22,71,715/-**.

Now, let us consider the compensation to be granted qua death of Aman Goyal. It stands amply established that deceased Aman Goyal was 26 years old and he was working as engineer in Swaraj Mazda. The detail of the salary paid to Aman Goyal, during his lifetime is Ex.P5 and as per the pay slip of February 2010, the monthly earnings of the deceased was Rs.23,617.32 and after deduction, the net salary was shown as Rs.19,530/-. However, learned Tribunal had erroneously considered the extent of salary, relating to this period. Though the deductions in the salary slip are reflected, but however, as already observed aforesaid, as per ***Pranay Sethi's case (supra)***, for the purpose of 'work on' of the compensation, actual salary ought to be taken minus tax component. Thus, considering the monthly earnings as Rs.23,617/-, the annual thereof, comes to be Rs.2,83,404/-.

As per the tax slab, prevalent in the year 2009-2010, the income upto Rs.1,60,000/- was exempted from tax. However, from the income bracket of Rs.1,60,000-3,00,000/-, income tax payable was 10%. After deduction of Rs.1,60,000/-, in the case of deceased Aman Goyal, the residue taxable amount works out to be Rs.1,23,404/- and therefore, working upon the tax on this amount @ 10%, comes to be Rs.12,340/-. After making deduction of the aforesaid extent of income tax amount, the residue annual income, comes out to be Rs.2,83,404-12,340=Rs.2,71,064/-.

Keeping in view the number of dependents of Aman Goyal, as per ***Sarla Verma's case***, 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.271064-90354=Rs.1,80,710/-.

To the aforesaid amount, considering age of deceased Aman Goyal, to be 26 years, at the relevant time, addition of 40% ought to be made, on the count of 'future prospects', as per ***Pranay Sethi's case (supra)***. Thus, the monthly earnings of deceased Aman Goyal, comes to be Rs.180710+72284=Rs.2,52,994/-.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**17**', and thus, by applying the same, the loss of dependency, works out to be Rs.252994x17=**Rs.43,00,898/-**.

Besides the aforesaid, as per ***Magma's case (supra)***, as observed aforesaid, each of the appellants-claimants are entitled to compensation, on the count of 'loss of consortium'. Considering the same, as per ***Pranay Sethi's case (supra)***, the appellants-claimants are entitled to Rs.48,400/- each i.e. Rs.48400x3=**Rs.1,45,200/-** 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 Aman Goyal, is re-computed, as herein given:-

Loss of dependency	:	**Rs.43,00,898/-**
Loss of consortium	:	**Rs.1,45,200/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.44,82,398/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.44,82,398-21,98,360=Rs.22,84,038/-**.

On the enhanced amount of the compensation, as now worked upon, in each case, 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.

Now, considering the apportionment as done by learned Tribunal. So far as, parents of both the deceased are concerned, in both the cases, the parents have been granted compensation, only to the extent of

Rs.1,00,000/- each. This is definitely on lower side.

Though, the apportionment as done by learned Tribunal, is not being disturbed, by this Court, but however, from the enhanced amount of compensation of **Rs.22,71,715/-** qua death of Gurjeet Singh, **Rs.6,00,000/-** each is granted to parents i.e. appellants-claimants No.4 and 5 and the residue amount of compensation, shall be apportioned equally amongst appellants-claimants No.1 to 3.

So far as, enhanced amount of **Rs.22,84,038/-**, relating to death of Aman Goyal is concerned, as observed aforesaid, the compensation granted by learned Tribunal to the parents is definitely on lower side, more particularly, considering the re-marriage of Shivani. Thus, the enhanced amount of compensation, as now worked upon, shall be apportioned equally to appellants-claimants No.1 to 3.

Accordingly, the impugned Award, stand modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid the appeal filed by the insurance company i.e. **FAO-263-2013** stands dismissed, whereas, the appeals filed by the claimants i.e. **FAOs-1503 and 1878-2013**, stand allowed.

February 03, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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