IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1077-2016 (O&M)
Date of Decision: February 10, 2025

Pinki Devi and others

...Appellants

VERSUS

Aman Bansal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.J.S.Lalli, Advocate
for the appellants.

Mr.Lovepreet Singh, Advocate for
Mr.Sanjeev Kodan, 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, on account of death of Pawan Kumar, in a motor vehicular accident, which took place on 17.05.2013.

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-99PS-5404, driven by respondent No.1-Aman Bansal and as a consequence thereof, Pawan Kumar, had died.

So far as, the factum and manner of taking place of the accident as well as the liability fastened upon the respondents is concerned, it is pertinent to mention that none of the respondents, who have been saddled with the liability, have filed any appeal. Thus, there is no necessity to further dwell on the aforesaid aspects.

Learned Tribunal, while considering deceased Pawan Kumar to be an un-skilled worker, assessed his income as Rs.5,000/- per month and made addition of 50%, on the count of 'future prospects' and monthly earning was worked upon as Rs.7500/- per month. However, considering the number of dependents to be three, 1/3rd was deducted and the loss of dependency was taken as Rs.5000/- per month and annual thereof, comes to be Rs.60,000/-. Considering the age of the deceased to be 35 years, multiplier of '16' was applied and the compensation was worked upon as Rs.9,60,000/-. Besides the aforesaid, an amount of Rs.20,000/- was granted towards 'funeral expenses' and conventional amount of Rs.1,00,000/- was granted for 'loss of consortium'. Another amount of Rs.50,000/- was granted towards 'loss on account of love and affection'. Thus, total compensation of Rs.11,30,000/- was granted.

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

At the very outset, it is pertinent to mention that it is categoric claim of the appellants-claimants that deceased was indulging in the work of fitting of aluminum doors, windows etc. and as working with M/s Goel Enterprises, Karnal. To so substantiate this version, PW-1 Pinki Devi, widow of deceased as well as PW-4 Bhuvan Goel, who is Manager of M/s Goel Enterprises, had been examined. Even though, PW-4 Bhuvan Goel had stated that deceased Pawan Kumar was doing work of aluminum fittings in their company from the year 2004 and that his salary was Rs.12,000/- per month, but however, no documentary evidence, has been brought on record, with regard to the employment of the deceased in the said company and thereupon, while considering the deceased to be an un-skilled worker, the compensation was worked upon.

No doubt, no documentary proof, as such, has come on record, but however, simply on the score of the same, there is no reason, coming forth, not to believe the version, so put forth, by PW-4 Bhuvan Goel, who had also brought the salary certificate. In any case, the deceased, ought to be considered as skilled worker, though, the extent of earnings, as pleaded, may not be taken into consideration. However, further it is pertinent to mention that minimum wages, so taken by learned Tribunal is also on lower side. In fact, minimum wages for an un-skilled worker, at the relevant time was Rs.5200/- per month. In any case, it is not essential that if the exact amount of earnings, in case of skilled worker, as such, does not come on record, his earnings are to be taken on minimum tier of un-skilled worker.

Considering all the aforesaid circumstances, as spelt out from the evidence, brought on record, while considering the deceased as skilled worker, the monthly earnings of the deceased, very close to the proximate reality, can conveniently be taken as Rs.6000/- per month.

Even though, addition to the extent of 50% had been made by learned Tribunal, on the count of 'future prospects', but however, considering the age of the deceased to be 35 years, 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 aforesaid count and thus, the income of the deceased is worked upon as Rs.6000+2400=Rs.8400/- per month.

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 monthly loss of dependency comes to be Rs.8400-2800=Rs.5600/-, annual whereof, comes to be Rs.67,200/-.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**16**', as applied by learned Tribunal and thus, by applying the same, the loss of dependency, works out to be Rs.67200x16=**Rs.10,75,200/-**.

However, learned Tribunal had granted an amount of Rs.1,00,000/-, on the count of 'loss of consortium' and Rs.20,000/- on account of 'funeral expenses', 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***, all the appellants-claimants/dependents are entitled to 'spousal', 'parental' and 'filial' consortium, as required. Thus, on the count of 'loss of consortium', the appellants-claimants are entitled to Rs.48,400x3=**Rs.1,45,200/-**. Similarly, 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.50,000/-, 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 Pawan Kumar, is re-computed, as herein given:-

Loss of dependency	:	**Rs.10,75,200/-**
Loss of consortium	:	**Rs.1,45,200/-**
Loss of estate	:	**Rs.18,150/-**
Funeral expenses	:	**Rs.18,150/-**
Total	:	**Rs.12,56,700/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.12,56,700-11,30,000=Rs.1,26,700/-**. On the enhanced amount of the compensation i.e. **Rs.1,26,700/-**, 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 01.10.2015 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 10, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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