IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2835-2015 (O&M)
Date of Decision: January 29, 2025

Smt.Bala and another

...Appellants

VERSUS

Ramesh Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ashwani Gaur, Advocate
for the appellants.

Mr.Punit Jain, 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 inadequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Ramesh, in a motor vehicular accident, which took place on 08.06.2014.

So far as, the factum and manner of taking place of the accident is concerned, none of the respondents, who have been made liable to pay the compensation, have filed any appeal. Hence, there is no necessity to further dwell on these aspects.

Suffice to consider that learned Tribunal, on appraisal of the evidence, had reached the conclusion about the accident to have taken place on 08.06.2014, on account of rash and negligent driving of car bearing registration No.DL-3CAM-1236, driven by respondent No.1-Ramesh Kumar. It was asserted by the claimants that deceased Ramesh was 37 years old and was skilled labourer, as he used to indulge in repairing of shoes near bus stand, G.T. Road, Ganaur and was earning Rs.15,000/- per month.

However, on the basis of the evidence on record, learned Tribunal concluded that no evidence, is coming on record, about indulgence of the deceased in work of repairing and polishing of shoes and his earnings to be Rs.15,000/- per month. Consequently, learned Tribunal had taken the earnings of the deceased as Rs.6,000/- per month, while considering the deceased to be indulging in manual labour. Considering the number of dependents, deduction of 1/3rd was made as 'personal expenses' and the annual loss of dependency was worked upon Rs.48,000/-. Considering the age of the deceased to be 37 years, at the relevant time, the multiplier of '15' was applied and the compensation was worked upon as 7,20,000/-. Besides the said amount, another amount of Rs.1,00,000/- was granted, on the counts of 'loss of consortium' and 'loss of estate'. Even, Rs.50,000/- was granted, on the count of 'loss of love and affection' for the minor child and Rs.25,000/-, on the count of 'funeral and transportation'.

Thus, in total, the compensation was worked upon as Rs.8,95,000/-, the break-up whereof, in the tabular form is herein given:-

(i)	Salary/income	Rs.6000/- per month
(ii)	After deducting 1/3rd as 'personal expenses'	Rs.6000-2000=Rs.4000/- per month Rs.4000x12=Rs.48000/- per annum
(iii)	Multiplier of '15'	Rs.48000x15=Rs.7,20,000/-
(iv)	Loss of consortium and loss of estate	Rs.1,00,000/-
(v)	Loss of love and affection	Rs.50,000/-

(vi)	Funeral and transportation	Rs.25,000/-
(vii)	**Total**	**Rs.8,95,000/-**

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

So far as, the indulgence of the deceased in the work of repairing and polishing of shoes is concerned, Smt.Bala, widow of the deceased, had stepped into witness box as PW-1 and in her affidavit, she had categorically stated about the vocation followed by her husband. Even if, it is so taken, it is pertinent to mention that the monthly earnings of Rs.15,000/- as asserted, does not stand established. Though, learned Tribunal had considered the deceased to be indulging in manual labour, but however, as per minimum wages, prevalent in the State of Haryana, at the relevant time, were to the extent of Rs.5,547/- and in view of the testimony of claimant No.1, taking the earnings of the deceased as Rs.6,000/- per month, which falls in the category of skilled labourer, this is the appropriate amount, so taken, while considering no proof of exact extent of earnings, coming on record and also considering the tendency amongst the claimants to assert about the exaggerated earnings of the deceased, in the motor accident claim case.

Considering the same, the earnings of Rs.6,000/- per month, as assessed by learned Tribunal, is appropriate. However, 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.6000-

2000=Rs.4000/-.

Considering the age of the deceased to be 37 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 count of 'future prospects' and thus, the income of the deceased is worked upon as Rs.4000+1600=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 '**15**', as applied by learned Tribunal and thus, by applying the same, the loss of dependency, works out to be Rs.67200x15=**Rs.10,08,000/-**.

However, learned Tribunal had granted an amount of Rs.1,00,000/-, on the counts of 'loss of consortium' and 'loss of estate', but this is on higher side. As per ***Pranay Sethi's case (supra)***, the amount on this 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, the compensation, at present, works out to be Rs.48,400/-. Considering the status of the appellants to be widow and daughter of the deceased, as per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, both of them, are entitled to 'spousal' and 'parental consortium'. Thus, on the count of 'loss of consortium', the appellants-claimants are entitled to Rs.48,400x2=**Rs.96,800/-**. 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.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 Ramesh, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.10,08,000/-**
Loss of consortium	**:**	**Rs.96,800/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.11,41,100/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.11,41,100-8,95,000=Rs.2,46,100/-**. On the enhanced amount of the compensation i.e. **Rs.2,46,100/-**, 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 enhanced amount of compensation, as now worked upon, shall be disbursed to the appellants-claimants, in equal shares.

Accordingly, the impugned Award dated 23.02.2015 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.

January 29, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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