IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2169-2016 (O&M)
Date of Decision: July 07, 2025

Smt.Rajni and others

...Appellants

VERSUS

Sukhbir and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Radhey Shyam Sharma, Advocate, for the appellants.

Mr.Maneet Kaushik, Advocate for respondent No.2.

Mr.Pankaj Mehta, Advocate for respondent No.3.

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ARCHANA PURI, J.

The appellants-claimants have filed the present appeal for seeking enhancement of the compensation, awarded by learned Motor Accident Claims Tribunal, on account of death of Dinesh Kumar Sharma, in a motor vehicular accident.

Suffice to consider that the accident had taken place on 02.11.2014. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident in question, to have taken place, on account of rash and negligent driving of Trala bearing registration No.HR-38T-7391, driven by respondent No.1-Sukhbir Singh and awarded compensation to the extent of Rs.15,02,000/- to the claimants and respondent No.3-insurance company was held liable to pay the compensation.

Be it noted that respondent No.3, upon whom, the liability was fastened, had not filed any appeal. In fact, the present appeal has been filed by the appellants-claimants for seeking enhancement of the compensation.

It is the pleaded case of the appellants-claimants that deceased Dinesh Kumar Sharma was 26 years old and was working as Manager in Pahalwan Goods Carrier/Transport, Byepass Road, Faridabad and was earning Rs.20,000/- per month and all the claimants were dependent upon the deceased.

However, learned Tribunal had concluded about deceased Dinesh Kumar Sharma to be 26½ years old and took the earnings of the deceased, considering him as labourer, as Rs.6000/- per month. Addition of 50% was made, on the account of future prospects and thus, the earnings were taken as Rs.9000/- per month. Considering the number of dependents, deduction of 1/4th, on the count of 'personal expenses' was made and multiplier of '17' was applied. Thus, the loss of dependency was worked upon as Rs.6750x12x17=Rs.13,77,000/-. Besides the same, on account of 'loss of consortium, love and affection etc.', another amount of Rs.1 lakh was awarded and on the counts of 'funeral expenses & last rites and transportation charges', an amount of Rs.25,000/- was awarded. Thus, in total, the compensation awarded was Rs.15,02,000/-.

Learned counsel for the parties heard.

It is submitted by learned counsel for the appellants-claimants that deceased was, in fact, working as Manager with Pahalwan Goods Carrier/Transport, Faridabad and was earning Rs.20,000/- per month. Even the wife of deceased has appeared as PW-1 and has deposed about the job of the deceased and furthermore, had also examined PW-3 Vijay Kumar, Manager, Pahalwan Goods Carrier/Transport, who also deposed about employment of Dinesh Kumar Sharma and letter of appointment was also proved. But however, the aforesaid evidence was erroneously discarded by learned Tribunal. Also, it is submitted that in the light of the aforesaid evidence, learned Tribunal had erroneously considered the earnings of the deceased, as that of a labourer and thus, consequential 'work on' of the compensation is on lower side. Under the conventional heads also, enhancement is called for.

On the other hand, learned counsel for the insurance company has submitted that in the light of no satisfactory evidence, coming on record, with regard to the vocation followed by the deceased, the extent of earnings have been appropriately, as prevalent at the relevant time qua minimum wages, considered as Rs.6,000/- per month and thus, the appeal sans merit and the same be dismissed.

Certainly, the '**work on**' of the compensation aforesaid, calls for re-computation, as per prevalent law.

From the matric examination certificate proved on record as Ex.P10, it is evident that the date of birth of Dinesh Kumar was 08.02.1988. Thus, on the date of accident, the deceased was 26½ years old. So far as, the vocation of the deceased is concerned, PW-1 Rajni, in her affidavit Ex.PW1/A, has categorically deposed about deceased, her husband, to be working as Manager in Pahalwan Goods Carrier, Faridabad. Thereafter, Vijay Kumar, who is Manager in Pahalwan Goods Carrier, Noida has stepped into witness box as PW-3 and he has also deposed about Dinesh Kumar to be working as Manager with Pahalwan Goods Carrier/Transport. He further proved the letter of appointment, wherein, the salary is stated to be Rs.20,000/-, which includes Rs.2500/- as conveyance and Rs.2500/- for food and accommodation.

Also, another certificate issued under the signatures of Proprietor of Pahalwan Goods Carrier, was proved by the said witness, which specifies about the duration of time, for which Dinesh Kumar worked in Pahalwan Goods Carrier.

Very true, as pointed out, the aforesaid documents have not been considered by learned Tribunal. Even though, it has been rightly observed by learned Tribunal that no mode of payment of salary or bank account, as such, has been proved on record, but however, there is no reason, as such, coming forth, to discard the testimonies of the aforesaid witnesses, more particularly, while considering the Motor Vehicles Act to be beneficial piece of legislation. However, at the same time, exaggeration of extent of earnings, at the behest of the claimants, cannot be ruled out, in the absence of the record, as pointed out by learned Tribunal.

However, considering the date of death, the minimum wages of the skilled labourer was stated to be Rs.6029/- per month. However, the deceased was working as Manager. Considering the same, it is not appropriate to consider the earnings of deceased, at the lowest tier, as per the notification, relating to the minimum wages. In the modest estimate and in the fitness of circumstances, as surfaced from the evidence brought on record, the earnings of deceased Dinesh Kumar Sharma are taken as Rs.12,000/- per month. Considering the same, there has to be re-determination of the compensation.

Considering the age of the deceased to be 26½ years old, at the relevant time, as per settled law, in view of ***Pranay Sethi's case***, addition of 40% ought to be made, instead of 50%, as done by learned Tribunal and after making such addition, the earnings of the deceased, comes to be Rs.12000+4800=Rs.16,800/-.

Considering the number of dependents, the deduction on the count of 'personal expenses' ought to be made to the extent of 1/4th, as done by learned Tribunal in view of guidelines laid down in ***Sarla Verma's case***. After making such deduction, the residue earnings comes to be Rs.16800-4200=Rs.12,600/-, annual whereof comes to be Rs.1,51,200/-.

Taking the age of the deceased, as observed aforesaid, '**17**' is the suitable multiplier, as applied by learned Tribunal. Thus, by applying the same, the loss of dependency comes to be Rs.1,51,200x17=**Rs.25,70,400/-.**

Besides the aforesaid, even the compensation, under the conventional heads calls for enhancement. A consolidated amount, on the count of 'loss of consortium and love and affection' has been given. But however, so far as, 'loss of love and affection' is concerned, the Hon'ble Supreme Court in ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, has laid down that

National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009
Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77

'**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. Thus, no separate compensation is to be awarded on the aforesaid count.

So far as, 'loss of consortium' is concerned, as per ***Pranay Sethi's case (supra)***, considering the clause of enhancement of 10%, after every three years, the amount, at present is Rs.48,400/- and the same is payable to each of the dependents/claimants. Thus, on this count, the compensation payable comes to be Rs.48,400x4=**Rs.1,93,600/-**.

Besides the aforesaid, on the count of 'funeral expenses & last rites and transportation charges', Rs.25,000/- has been awarded by learned Tribunal, which needs to be scaled down and present amount, on the count of 'funeral expenses', with aforesaid enhancement clause, works upon as **Rs.18,150/-**. Further, on the count of '**loss of estate**', another amount of **Rs.18,150/-**, is awarded.

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

Loss of dependency	:	**Rs.25,70,400/-**
Loss of consortium	:	**Rs.1,93,600/-**
Funeral expenses	:	**Rs.18,150/-**
Loss of estate	:	**Rs.18,150/-**
Total	:	**Rs.28,00,300/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.28,00,300-15,02,000=Rs.12,98,300/-**. Out of amount of compensation, as now worked upon i.e. **Rs.12,98,300/-**, claimants No.1 and 2 are held entitled to Rs.5,00,000/- each, whereas, claimant No.3 and 4 are held entitled to residue amount of Rs.2,98,300/- in equal shares.

On the enhanced amount of the compensation i.e. **Rs.12,98,300/-**, 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.

Accordingly, the impugned Award dated 18.11.2015 stands 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 observations, the present appeal stands allowed.

July 07, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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