IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4688-2016 (O&M)
Date of Decision: February 11, 2025

Suman Mahajan

...Appellant

VERSUS

Jarnail Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.M.K.Bhatnagar, Advocate
for the appellant.

Mr.R.C.Gupta, Advocate
for respondent No.3.

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ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Anubhav Mahajan, in a motor vehicular accident, which took place on 25.08.2008.

It is categoric claim of the appellant-claimant, who is mother of deceased that on 25.08.2008, at about 7.30 a.m., her son Anubhav Mahajan, while on motorcycle bearing registration No.HR-24H-9899, was going to Majitha road from his residential house. When he reached near Youth Hostel towards bus stand, Amritsar, a bus bearing registration No.PB-06F-9909, driven by respondent No.1-Jarnail Singh, in a rash and negligent manner, came from bus stand and struck with the motorcycle, as a result whereof, Anubhav Mahajan had sustained grievous injuries and he was admitted in Amandeep Hospital, where he died on 27.08.2008. The accident had taken place, on account of rash and negligent driving of the offending bus, driven by respondent No.1.

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 bus bearing registration No.PB-06F-9909, driven by respondent No.1-Jarnail Singh and the same caused injuries upon Anubhav Mahajan, which proved fatal and he ultimately died on 27.08.2008.

It is pertinent to mention that none of the respondents, who have been saddled with the liability to pay the compensation, so worked upon by learned Tribunal, had filed any appeal, to dispute the liability. Hence, there is no necessity to further dwell on this aspect. Be it noted that only appeal has been filed, at the instance of the appellant-claimant for seeking enhancement.

It is categoric claim of the appellant-claimant that deceased was 21 years old and he was running a coaching/tuition centre and earning Rs.20,000/- per month. On the basis of the evidence, coming on record, though learned Tribunal had concluded about the deceased to be 21 years, but however, held that the source of earning of the deceased, as asserted, was not established. In fact, learned Tribunal concluded about the deceased to be student of B.Com, Final Year and thus, his notional earnings were taken as Rs.3000/- per month. Considering him to be unmarried and while considering age of appellant-claimant, who is mother of the deceased, multiplier of '13' was applied and compensation was worked upon as

Rs.4,68,000/-. However, no deduction was made on the count of 'personal expenses'. Besides the same, another amount of Rs.25,000/- was granted as 'funeral expenses' and Rs.5000/- as 'loss of estate'. Also, considering the medical bill receipts Ex.C1 to C51, which were to the extent of Rs.1,12,526/-, another amount of Rs.1,15,000/-, as 'medical expenses' was granted. Thus, in total, the compensation awarded was to the extent of Rs.6,13,000/-.

However, considering the aforesaid 'work on' of the compensation, learned counsel for the appellant-claimant has assiduously submitted that the extent of earnings taken, is on lower side. Much emphasis has been laid upon the testimony of PW-1 Suman Mahajan-claimant, wherein, it has come that the deceased was student of B.Com, Final Year. Considering him to be so and affluent background of family of the deceased, it is submitted that earnings, ought to have been taken, much above the amount, as assessed by learned Tribunal. In fact, learned counsel submits that the deceased ought not to be taken as unskilled worker and therefore, minimum tier of earnings, may not be considered, to make assessment of the compensation.

On the other hand, learned counsel for the insurance company submits that there is nothing, as such, coming on record, with regard to running of coaching centre by the deceased, as pleaded by the appellant-claimant and therefore, the extent of earnings, so taken, is just and reasonable.

However, considering the material coming forth, the extent of earnings taken, is definitely on lower side and thus, consequential 'work on' of the compensation is also on lower side, which now calls for re-computation.

Even though, the appellant-claimant had asserted about deceased to be running coaching centre and earnings Rs.20,000/- per month, but however, there is no satisfactory evidence, in this regard, coming forth and therefore, this plea has been rightly discarded by learned Tribunal. However, from the cross-examination of PW-1 Suman Mahajan, it has come forth that the deceased was a student of B.Com, Final Year, at the time of his death. Also, it is coming forth that the husband of the claimant was a bank employee, at the relevant time and he was earning Rs.50000/- per month. Meaning thereby, the deceased belonged to an affluent middle class family.

In the given circumstances, considering the education status, as spelt out, the notional income so taken by learned Tribunal is on lower side. But in any case, the earnings of the deceased, as such, cannot be equated as that of an unskilled or skilled labourer. Considering the educational qualification and the well being of the family of the deceased, in modest estimate, very close to the proximate reality, the notional earnings, can conveniently be taken as Rs.8000/- per month.

To the said amount, addition on the count 'future prospects' ought to be made, to the extent of 40%, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, and thus, the income of the deceased is worked upon as Rs.8000+3200=Rs.11,200/- per month.

The deceased was unmarried at the relevant time. Considering his marital status, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation***

and anr., 2009(3) RCR (Civil) 77, deduction ought to be made to the extent of 50%, on the count of 'personal expenses' and as such, the monthly loss of dependency comes to be Rs.11200-5600=Rs.5600/-, annual whereof, comes to be Rs.67,200/-.

Even though, learned Tribunal had considered the age of mother of the deceased and applied the multiplier of '13', but however, the same is not appropriate. As per ***Pranay Sethi's case (supra)***, it is the age of the deceased, which ought to be taken into consideration, for application of the appropriate multiplier. Thus, considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the appropriate and suitable multiplier, to be applied is '**18**' and thus, by applying the same, the loss of dependency, works out to be Rs.67200x18=**Rs.12,09,600/-**.

Besides the aforesaid, as per ***'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130'***, the appellant-claimant is entitled to 'filial' consortium'. 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 passing 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/-** and on the similar parameters, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Besides the same, the medical expenses, considering the bills Ex.C1 to C51, the amount of Rs.1,15,000/- as granted by learned Tribunal, is also to be given.

Considering the same, the compensation payable to appellant-claimant, on account of death of Anubhav Mahajan, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.12,09,600/-**
Loss of consortium	**:**	**Rs.48,400/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Medical expenses	**:**	**Rs.1,15,000/-**
Total	**:**	**Rs.14,09,300/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.14,09,300-6,13,000=Rs.7,96,300/-**. On the enhanced amount of the compensation i.e. **Rs.7,96,300/-**, the appellant-claimant 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 07.01.2016 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 11, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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