IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-8014-2016 (O&M)
Date of Decision: May 06, 2025

Smt.Sumitra and others

...Appellants

VERSUS

Major Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Atul Yadav, Advocate,
for the appellants.

Mr.Sanjeev Kodan, Advocate
for respondent No.3.

****

ARCHANA PURI, J.

The appellants-claimants have filed the present appeal thereby questioning the correctness of the amount of compensation, awarded by learned Motor Accident Claims Tribunal, on account of death of Satish, in a motor vehicular accident.

Suffice to consider that the accident had taken place on 06.11.2015. On the analysis 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 truck bearing registration No.PB-23M-8685, driven by respondent No.1-Major Singh and the same caused fatal injuries to Satish. Thereupon, learned Tribunal, while considering the deceased to be 33 years old and employed as Passenger

Services Assistant in Air India and also took into consideration testimony of PW-3 Rahul, Assistant Manager, Air India Sats Airport Services Pvt. Ltd., who proved pay slip Ex.P6, the break-up of the salary, as depicted in the pay slip for the month of October 2015 Ex.P6, is as herein given:-

Earnings	Eligible	Paid
Direct Basic	6,500.00	6,500.00
Over Time	6,625.00	6,625.00
Holiday Wages	656.00	656.00
Special Allowance	1,050.00	1,050.00
Night Shift Allowance	1,500.00	1,500.00
Attendant Bonus	1,500.00	1,500.00
Deductions PF	780.00	
ESIC	313.00	

Earnings	Deductions	Net Payable
Rs.17,831.00	Rs.1,093.00	Rs.16,738.00

However, learned Tribunal considering the break-up aforesaid relating to over-time, holiday wages and night shift allowances had observed that it was not the permanent income of the deceased and while excluding the same, considered the salary of deceased to be Rs.9,050/- per month. Even though, it was asserted in the claim petition that deceased was indulging in agricultural work, but however, considering no satisfactory evidence, coming on record and also considering the recitals of jamabandi Ex.P9, it was concluded that deceased never used to indulge in agricultural work. Thus, the earnings were taken as Rs.9,050/-. Considering the age of the deceased to be 33 years, at the relevant time, on the count of future prospects, addition of 50% was made and the compensation was worked upon as (50% x 1,08,600) + (1,08,600) = Rs.1,62,900/- per annum. Learned Tribunal was not inclined for deduction on account of income tax. However, father of deceased was not held to be dependent upon the income of the deceased. Considering other number of dependents to be four, 1/4th was deducted towards personal and living expenses and the compensation was worked upon as (3/4th x 1,62,900) = Rs.1,22,175/-, upon which, multiplier of '16' was applied and the loss of dependency was assessed as Rs.19,54,800/-.

Besides the same, another amount of Rs.25,000/- each was awarded, on the count of 'funeral expenses' as well as 'loss of estate' and the amount of Rs.1 lakh was awarded to claimant No.1, on account of loss of consortium and another Rs.1 lakh was awarded to claimants No.2 and 3, towards loss of love and affection. Thus, in total, the compensation to the extent of Rs.22,04,800/- was awarded. All the respondents were held liable to pay the aforesaid amount of compensation, jointly and severally.

Be it noted that, it is only the appellants-claimants, who have filed the present appeal for seeking enhancement of the compensation.

From the evidence, brought on record, suffice to the consider that date of birth of Satish, as per matriculation certificate Ex.P10 was 07.09.1982. Thus, he is established to be 33 years old, at the time of accident. On the analysis of the evidence, brought on record, it goes without saying that deceased was employed on the post of 'Passenger Services Assistant in Air India'. The pay slip for the month of October 2005 was proved as Ex.P6 by PW-3 Rahul Kumar, Assistant Manager. The detail break-up of the salary of the deceased has also been given in the earlier portion of the judgment. It is pertinent to mention that learned Tribunal had excluded break-up relating to over-time, holiday wages and night shift allowances and thus, considered the salary of deceased to be Rs.9,050/- per month.

Very true, as pointed by learned counsel for the respondent that the over-time, as such, cannot be considered to be permanent feature of the deceased and therefore, it has been rightly excluded. However, holiday wages and night shift allowances, cannot be excluded. The night shifts in the air services is also the necessary ancillary outcome of the nature of the job and therefore, it ought not to have been excluded from consideration. In the light of the same, the compensation, as worked upon by learned Tribunal, do call for re-computation.

Before proceeding further, it is pertinent to mention that learned Tribunal had granted the compensation only to the widow, children and mother of the deceased. However, father of the deceased was held to be not dependent upon the deceased and deprived him of the compensation.

However, the aforesaid finding is palpably wrong. 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 son may not be rendering financial assistance to his father, but however, emotional and psychological dependency upon the young son, by the father, as such, ought to be there and considering the same, the father of the deceased, is also entitled to compensation. The emotional dependency of the parents of a young son, who had died, as such, cannot be overlooked. Thus, appellant-claimant No.5-Ved Singh is held entitled to compensation, on account of death of his son Satish.

From the total earnings of deceased i.e. Rs.17,831/-, only amount to be excluded is of the over-time i.e. Rs.6625/-. After deducting the same, the extent of earnings comes to be Rs.11,206/-, annual whereof comes to be Rs.1,34,472/-. 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. But however, the extent of salary received by the deceased, as worked upon aforesaid, fall in the range of earning, which was exempted from the permissible deductions.

Undisputedly, the deceased was 33 years old at the time of accident. Considering the same, addition of 50% ought to be made, on the count of 'future prospects', which comes to be Rs.67,236/-. After making such addition, the earnings of the deceased, comes to be Rs.2,01,708/-.

At this juncture, it is pertinent to mention that learned Tribunal had made deduction to the extent of 1/4th, while considering the number of dependents to be four, while excluding claimant No.5, but however, as observed aforesaid, claimant No.5 is also held dependent upon the deceased. As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the deduction of 1/4th is to be made, on the count of 'personal expenses', with regard to the dependents falling in the bracket of 4 to 6. Thus, the deduction, ought to be made to the extent of 1/4th, which comes to be Rs.50,427/- and the residue earnings comes to be Rs.1,51,281/-

Taking the age of the deceased, as observed aforesaid, the appropriate multiplier to be applied is '**16**' as applied by learned Tribunal. Thus, by applying the same, the loss of dependency comes to be Rs.1,51,281x16=**Rs.24,20,496/-**.

However, learned Tribunal had granted an amount of Rs.1,00,000/- to claimant No.1, on the count of 'loss of consortium' and Rs.25,000/- each, on the count of 'funeral expenses' 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, children and parents of the deceased, as per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, all of them, are entitled to 'spousal', 'filial' and 'parental consortium'. Thus, on the count of 'loss of consortium', the appellants-claimants are entitled to Rs.48,400x5=**Rs.2,42,000/-**. 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.1,00,000/- to claimant No.2 and 3 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 Satish, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.24,20,496/-**
Loss of consortium	**:**	**Rs.2,42,000/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.26,98,796/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.26,98,796-22,04,800=Rs.4,93,996/-**. On the enhanced amount of the compensation i.e. **Rs.4,93,996/-**, 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. Out of the enhanced compensation, as now worked upon i.e. **Rs.4,93,996/-**, appellant-claimant No.5 is held entitled to Rs.1,93,996/- and appellants-claimants No.1 to 4, are held entitled to Rs.75,000/- each.

Accordingly, the impugned Award dated 25.07.2016 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.

May 06, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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