2025:PHHC:026945

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3183-2017 (O&M)
Date of Decision: February 25, 2025

The New India Assurance Company Limited
...Appellant

VERSUS

Gurpreet Kaur and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Pardeep Kumar, Advocate
for the appellant.

Respondents No.1 to 6 proceeded against ex-parte.

Service of respondent No.7 dispensed with.

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ARCHANA PURI, J.

The present appeal has been filed by the appellant-The New India Assurance Company Ltd., thereby, assailing the Award dated 22.02.2017, passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted, on account of death of Gurmeet Singh, in a motor vehicular accident, which took place on 02.01.2016.

So far as, the factum and manner of taking place of the accident is concerned, the same, as such, is not disputed by the insurance company. In fact, the insurance company has only assailed the Award on the quantum of compensation.

The essential facts, to be noticed, are as follows:-

That, on 02.01.2016, Gurmeet Singh had met with an accident and the same resulted into his death. It is categoric claim of the respondents-claimants that deceased was 28 years, at the time of accident and he was indulging in the agricultural pursuit and indulging in dairy farming and was earning Rs.30,000/- per month.

However, on perusal of the evidence, brought on record and considering the recitals of the Aadhar Card, copy whereof is Ex.P10, learned Tribunal had concluded about the date of birth of Gurmeet Singh to be 01.01.1990 and thus, considering the accident to have taken place on 02.01.2016, the deceased was held to be 26 years old, at the time of accident.

Furthermore, since no evidence was coming forth, with regard to the vocation followed by the deceased, while considering the deceased as un-skilled worker, the prevalent minimum wages of Rs.7976/- per month, were taken as earnings of the deceased, to work upon the compensation and addition of 50% was made, on the count of 'future prospects'. 1/4th was deducted as 'personal expenses' and multiplier of '17' was applied and the compensation was worked upon as Rs.18,30,492/-.

Besides the same, another amount of Rs.25,000/- was granted towards transportation of dead body, funeral and last rites and Rs.1,00,000/- was granted to the widow of the deceased, on the count of 'loss of consortium'. An amount of Rs.1,00,000/- was also granted towards 'loss of estate'. Besides the aforesaid, an amount of Rs.1,00,000/- was given to claimant No.2(child)and Rs.50,000/- each to claimants No.3 and 4 (parents), towards 'loss of love and affection'. Thus, in total, the compensation awarded was Rs.22,55,492/-.

Definitely, as per the prevalent law, the compensation worked upon aforesaid, do call for re-computation.

Before proceeding further, it is pertinent to mention that learned counsel for the appellant has submitted that father of the deceased, is not entitled to any compensation, but however, the submission, so made, is also bereft of merits.

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, ought to be paid the compensation. The emotional dependency of the parents of a young son, who had died, as such, cannot be overlooked.

So far as, the age of the deceased is concerned, the same has been appropriately considered by learned Tribunal to be 26 years, on the basis of the recitals of Aadhaar Card Ex.P10. Even, with regard to the vocation followed by the deceased, there was no satisfactory evidence, coming on record and as such, the earnings have been appropriately considered as that of casual labourer as Rs.7976/- 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 26 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.7976+3190=Rs.11,166/- 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.11,166-2791=Rs.8375/-, annual whereof, comes to be Rs.1,00,500/-.

Considering the age of the deceased, as per ***Sarla Verma’s case (supra)***, the appropriate and suitable multiplier, to be applied is ‘**17**’, as applied by learned Tribunal and thus, by applying the same, the loss of dependency, works out to be Rs.1,00,500x17=**Rs.17,08,500/-**.

However, learned Tribunal had granted an amount of Rs.25,000/- on account of ‘funeral expenses’, another amount of Rs.1,00,000/-, on the count of ‘loss of consortium’ and an amount of Rs.1,00,000/-, on the count of ‘loss of estate’, 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.48,400x4=**Rs.1,93,600/-**. 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 (child) and Rs.50,000/- each to claimants No.3 and 4 (parents), 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 claimants, on account of death of Gurmeet Singh, is re-computed, as herein given:-

Loss of dependency	**:**	**Rs.17,08,500/-**
Loss of consortium	**:**	**Rs.1,93,600/-**
Loss of estate	**:**	**Rs.18,150/-**
Funeral expenses	**:**	**Rs.18,150/-**
Total	**:**	**Rs.19,38,400/-**

As such, the amount so awarded by learned Tribunal stands reduced from Rs.22,55,492/- to Rs.19,38,400/-. The impugned Award dated

22.02.2017 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same. However, if the amount, as awarded by learned Tribunal had already been paid to any of the claimants, the same shall be recovered proportionate to their reduced share.

With the above observations, the present appeal stands allowed.

February 25, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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