IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6498-2017 (O&M)
Date of Decision: April 25, 2025

National Insurance Company Ltd.

...Appellant

VERSUS

Manjit Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sandeep Suri, Advocate
for the appellant.

Mr.N.S.Chahal, Advocate
for respondents No.1 to 4.

Mr.P.P.S.Brar, Advocate
for respondent No.5.

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ARCHANA PURI, J.

The present appeal has been filed by the appellant-National Insurance Company Ltd., thereby, challenging the Award dated 03.04.2017, passed by learned Motor Accident Claims Tribunal, on the quantum of compensation granted, on account of death of Joginder Singh, in a motor vehicular accident, which took place on 27.09.2015.

So far as, the factum and manner of taking place of the accident is concerned, none of the respondents, upon whom, the liability was fastened, have filed the appeal. As such, there is no necessity to dwell further on these aspects.

On appraisal of the evidence, brought on record, learned Tribunal had concluded that the accident had taken place, on account of rash and negligent driving of truck bearing registration No.RJ-04G-1696 and it resulted into death of Joginder Singh.

It is also not disputed between the parties that Joginder Singh was 36 years old, at the time of accident and he was indulging in agricultural pursuit. While taking the earnings of the deceased as Rs.6500/- per month, 50% addition was made, on the count of 'future prospects'. Thereupon, considering the number of dependents, 1/4th was deducted, on the count of 'personal expenses' and considering the age of deceased Joginder Singh, multiplier of '15' was applied and as such, the loss of dependency was worked upon as Rs.7320x12x15=Rs.13,17,600/-. Besides the aforesaid, another amount of Rs.30,000/- was granted, on the count of 'funeral expenses and last ceremonies' and Rs.1,00,000/- was granted towards 'loss of estate'. Another amount of Rs.50,000/- was granted on account of 'loss of love and affection' and claimant-Manjeet Kaur, widow of deceased was also held entitled to compensation to the extent of Rs.1,50,000/-, on the count of 'loss of consortium'.

In this manner, total compensation was worked upon as Rs.14,97,600/- and it was ordered to be paid to the claimants in the ratio of 30:25:25:20, besides the amount of Rs.1,50,000/-, granted to claimant-Manjeet Kaur. Also, the claimants were held entitled to interest @7% per annum, on the award amount, from the date of accident, till the date of payment. Further, it was ordered that in case, the compensation is not paid within two months, the claimants shall be entitled to penal interest @9% per annum from the date of accident till the date of realization.

Feeling aggrieved by the extent of compensation awarded, the insurance company has filed the present appeal.

Upon notice, respondents made appearance.

Learned counsel for the parties heard.

The insurance company is seeking only reduction of the awarded amount. Considering the 'work on' of the compensation, as detailed aforesaid, the same do call for re-computation, as per prevalent law.

So far as, the earnings of the deceased is concerned, the same has been appropriately considered as Rs.6500/- per month. However, the addition on the count of 'future prospects' as 50%, is contrary to the principles as laid down in ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***. Considering the age of deceased Joginder Singh to be 36 years and vocation followed by him, addition of 40% ought to be made, on the aforesaid count, instead of 50% and thus, the income of the deceased is worked upon as Rs.6500+2600=Rs.9100/- per month.

As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, learned Tribunal has correctly made deduction to the extent of 1/4th, considering the number of dependents and had appropriately applied the multiplier of '15', considering the age of the deceased.

However, learned Tribunal had granted an amount of Rs.35,000/- on account of 'funeral expenses', another amount of Rs.1 lakh, on the count of 'loss of estate' and an amount of Rs.1,50,000/- to claimant-

Manjeet Kaur, on the count of 'loss of consortium', 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.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 Joginder Singh, is re-computed, as herein given:-

Income of deceased	Rs.6500/- per month
Addition of 40% as future prospects	Rs.6500+2600=Rs.9100/-

Deduction of 1/4th as personal expenses	Rs.9100-2275=Rs.6825/- per month, annual whereof, comes to be Rs.81,900/-
Multiplier of '15'	Rs.81900x15=**Rs.12,28,500/-**
Loss of consortium	Rs.1,93,600/-
Loss of estate	Rs.18,150/-
Funeral expenses	Rs.18,150/-
Total	**Rs.14,58,400/-**

As such, the amount awarded by learned Tribunal stands reduced from **Rs.14,97,600/-** to **Rs.14,58,400/-.** The amount of compensation as now worked upon, shall be apportioned between the claimants in the ratio of 30:25:25:20, as ordered by learned Tribunal. However, the same shall be inclusive of the amount of Rs.1,50,000/-, as separately awarded to claimant-Manjeet Kaur.

The impugned Award dated 03.04.2017 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.

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

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