IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-884-2010 (O&M)
Date of Decision: April 10, 2026

Smt.Preeti and others

...Appellants

VERSUS

Jagpal Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Dr.Anjali Bansal, Advocate for
Mr.Rahul Bansal, Advocate,
for the appellants.

Ms.Alka Joshi, Advocate
for respondent No.3.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Pardeep Mittal, in a motor vehicular accident.

Suffice to consider that the accident had taken place on 20.01.2008.

So far as, factum of accident, manner of taking place of the same and the liability fastened upon the respondents is concerned, it is pertinent to mention that none of the respondents, who were made liable, have filed any appeal, to assail the findings on these aspects. As such, matter on this count, requires no further scrutiny.

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

On appraisal of the evidence, brought on record, learned Tribunal had held that deceased was 28 years old, at the time of accident and he was following the profession of Chartered Accountancy. As per the pleaded case of the appellants-claimants, the deceased, besides being sole proprietor of firm M/s Pardeep Mittal and Associates, FCA, was also retainer and consultant with various firms and as such, his earnings were Rs.80,000/- per month.

Preeti, widow of the deceased stepped into witness box as PW-4 and her affidavit is Ex.PW4/A. Besides the said witness, with regard to vocation followed by the deceased and consultancy work being done by him, the appellants-claimants have examined PW-2 Surender Kumar Kochar, Chief Executive of EP Electro Pressings Pvt. Ltd., Faridabad, PW-3 Anoop Aggarwal, Director of ABG Apparel Pvt. Ltd. and PW-6 Rakesh Sharma, Accounts Officer, SH Haryana Wires Ltd. and income tax returns of the deceased were proved through PW-7 Krishan Kumar Aggarwal, Chartered Accountant.

On appraisal of the aforesaid evidence, learned Tribunal had discarded the earnings, with regard to consultancy with the firm M/s EP Electro Pressings Pvt Ltd. as well as ABG Apparrel Pvt. Ltd. Further, it was held by learned Tribunal that though deceased was qualified Chartered Accountant and having private practice, in the name and style of M/s Pardeep Mittal and Associates, but however, he was providing service only to SH Haryana Wires Ltd. as retainer and consultant and was earning Rs.40,000/- per month. Taking it to be so and also taking into consideration the income tax returns proved through PW-7, learned Tribunal, more particularly, considering Ex.PW7/1, took the gross income to be Rs.3,43,971/-. As per the income and expenditure details attached with the return, the professional fee was held to be Rs.5,04,920/- and professional expenditure was taken as Rs.1,60,949/-. This was taken into consideration and after making deduction of the same and also considering about the professional expenditure to be about Rs.16,000/- per month, further calculation of the loss of dependency of the appellants was made and the annual income, after making deduction of professional expenses was worked upon as Rs.24,000/- per month, annual whereof is Rs.2,88,000/-.

The age of the deceased was taken as 28 years, as established from the evidence, brought on record, which fact also stands established from the date of birth to be 07.07.1979, as evident from the income tax record.

1/4th was deducted, on the count of 'personal expenses', which was to the extent of Rs.72,000/-. After making such deduction, the annual loss of dependency was taken as Rs.2,16,000/-. Considering the age of the deceased, multiplier of '17' was applied and loss of dependency was worked upon as Rs.36,72,000/-. Besides the aforesaid amount, the appellants-claimants were also held entitled to Rs.10,000/-, towards 'funeral expenses' and appellant-claimant No.1 was held entitled to the amount of Rs.15,000/-, on the count of '**loss of consortium**'. Thus, the total compensation payable to the appellants-claimants was worked upon as Rs.36,97,000/-.

However, the '**work on**' of the compensation, do call for recomputation, as per settled prevalent law.

So far as, the age of the deceased is concerned, the same is not disputed. Even, the vocation followed by the deceased, as such, is also not disputed. However, counsel for the appellants has vehemently submitted that the earnings of deceased was much above than what was taken by learned Tribunal and thus, the consequential '**work on**' of the compensation is on a lower side.

In fact, counsel for the appellants-claimants, made reference to testimony of PW-2 Surender Kumar Kochar, Chief Executive of EP Electro Pressings Pvt. Ltd., who deposed that the deceased was employed as Retainer w.e.f. 01.10.2007 and the fee payable was Rs.1,20,000/- per annum and that he worked with their firm upto 20.01.2008 and he was paid Rs.34,574/- after deducting TDS. Further also, counsel made reference to the testimony of PW-3 Anoop Aggarwal, Director of ABG Apparel Pvt. Ltd. and as per the said witness also, Pardeep Mittal was retained as Consultant for their company w.e.f. 01.09.2007 and the fee payable was stated to be Rs.1,00,000/- per annum and he proved certificate of his company as Ex.P5, wherein, it is stated that an amount of Rs.34,323/-, after deducting TDS, vide cheque for the period from 01.09.2007 to 20.01.2008 was paid. Photocopy of form No.16-A was placed on record.

Considering the same, it is submitted that requisite amount, as reflected in the documents proved by the aforesaid witnesses, ought to be taken into consideration to make assessment of the extent of earnings. Not only this, counsel for the appellants-claimants also submitted that even SH Haryana Wires Limited had agreed to enhance the amount of retainership fee of the deceased from Rs.40,000/- to Rs.60,000/-. This also, ought to be taken into consideration, but the same has been erroneously discarded by learned Tribunal.

However, the aforesaid submission is not tenable. Very well learned Tribunal had considered the arguments raised by counsel for the respondents about the income part of the deceased to be highly exaggerated and that the earnings have been inflated and given a threefold jump. In this regard, learned Tribunal had made reference to the income tax returns, which are for the period 2005-06 and 2006-07. In the income tax returns for the years 2005-06 and 2006-07, which are Ex.P9 and Ex.P10, the earnings of the deceased are shown as Rs.1,18,627/- and Rs.1,49,028/-, respectively. Ex.P11 pertains to financial year 2007-08 i.e. from 01.04.2007 to 20.01.2008 i.e. upto the date of death of Pardeep Mittal. However, Ex.P11 pertains to major portion of the year, till the time of death of Pardeep Mittal. As such, the same has been appropriately considered by learned Tribunal.

PW7/1 reveals about the professional fee received by the deceased to be Rs.5,04,920/- and after making deduction of the expenditure as indicated therein, the surplus was shown to be Rs.3,43,971/-. Thus, the total of the expenditure comes to be Rs.1,60,949/-. Taking it to be so and dividing the same, with the number of months, under consideration till the death of Pardeep Mittal i.e. 10 months, approximately, the professional expenditure has been worked upon as Rs.16,000/- per month.

Close perusal of Ex.PW6/C and Ex.PW6/E, clearly establish about the deceased to be working as Consultant and Retainer, at the retainership fee of Rs.40,000/- per month. It has been very correctly considered by learned Tribunal about the requisite amount to have been paid by virtue of cheque, as evident from Ex.PW6/C upto January 2008. Therefore, no doubt, as such, can be raised about this extent of earnings.

So far as, enhancement of the retainership fee from Rs.40,000/- to Rs.60,000/- is concerned, relating to the same also, taking into consideration the timing of increase, being very close to the date of death of the deceased and that too, which was acted upon, after the death of Pardeep Mittal, as well as, no further satisfactory material, coming on record, with regard to this enhancement, the same has been correctly discarded by learned Tribunal.

Likewise, with regard to consultancy service provided to EP Electro Pressings Pvt. Ltd. as well as ABG Apparel Ltd., learned Tribunal has rightly discarded the same, as no satisfactory evidence, relating to issuance of certificates of employment of the deceased, as such, was brought on record. It was never reflected in any other documentation of the said firms and the amount, as assessed, after deduction of TDS, was paid subsequent to the death of deceased. No register etc. or any in-system documentation of the said firms, which maintains record of the employees, the salaries disbursed or the expenditure incurred by virtue of seeking consultancy etc., as such, was proved. Therefore, it has been rightly excluded by learned Tribunal.

As per Ex.PW6/C, the deceased was appointed as Consultant and Retainer, at a monthly fee of Rs.40,000/- in April, 2007. This amount, as evident from Ex.PW6/C, was given to the deceased by virtue of cheques, the detail whereof, is also reflected in Ex.PW6/C. This evidently establish about the deceased to be working as Consultant and Retainer, at retainership fee of Rs.40,000/- per month. There is nothing, as such, brought on record, to dispute the retainership, so followed by the deceased with the said firm.

Though, it was also the plea taken that this retainership fee stood enhanced from Rs.40,000/- to Rs.60,000/-, but however, this also, as such, has been correctly, not taken into consideration by learned Tribunal, as no satisfactory material, was brought on record, with regard to this increase and also, as observed aforesaid, no documentation, except Ex.PW6/B, came forth and no documentation relating to the same, which was reflected in the in-system documentation of the firms, came forth. Therefore, it has been correctly discarded by learned Tribunal, considering the timing of increase and that it was acted upon after the death of Pardeep Mittal.

In the light of the same and more particularly, considering Ex.PW6/C, the earnings of the deceased have been appropriately considered as Rs.40,000/- per month. However, looking at Ex.PW7/1, where the office expenses for a period of 10 months, soon before the death of Pardeep Mittal, as reflected in Ex.PW7/1, the expenditure has been worked upon as Rs.16,000/- per month. After making deduction of the same, the net income of the deceased was correctly taken as Rs.24,000/- per month, annual whereof is Rs.2,88,000/-.

However, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, for the purposes of assessment of the compensation, '**actual salary**' ought to be taken minus '**tax component**'. As per the tax slab, prevalent in the year 2007-2008, the income upto Rs.1,10,000/- was exempted from tax. However, from the income bracket of Rs.1,10,000-1,50,000/-, income tax payable was 10%, which was to the extent of Rs.4000/-. For the income bracket of Rs.1,50,000-2,50,000/-, income tax payable was 20%, which was to the extent of Rs.20,000/-. Furthermore, from the income bracket of Rs.2,50,000-5,00,000, the tax payable was 30%. After deduction of Rs.2,50,000/-, the residue taxable amount works out to be Rs.2,88,000-2,50,000=Rs.38,000/- and therefore, working upon the tax on this amount @ 30%, the amount of tax is Rs.11,400/-. The total tax comes to be **Rs.35,400/-**. On the amount of tax so assessed, additional tax of 3% ought to be levied, on account of education cess. Thus, the total tax payable, comes to be Rs.35,400+1062=**Rs.36,462/-**. After making deduction of the aforesaid extent of income tax amount, the residual annual income, comes to be Rs.2,88,000-36,462=**Rs.2,51,538/-**.

As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, considering the number of dependents, who are four in the present case, deduction ought to be made to the extent of 1/4th, on the count of '**personal expenses**' and as such, the loss of dependency comes to be Rs.2,51,538-62,884=Rs.1,88,654/-.

However, considering the age of the deceased, addition to the extent of 40% ought to be made, on the count of 'future prospects', as per ***Pranay Sethi's case (supra)*** and thus, the annual income of the deceased is worked upon as Rs.1,88,654+75,461=Rs.2,64,115/-.

Considering the age of the deceased, as per ***Sarla Verma's case (supra)***, the 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.2,64,115x17=**Rs.44,89,955/-**.

Besides the same, under the conventional heads, the compensation awarded by learned Tribunal also calls for enhancement. As per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, the claimants are entitled to compensation, on the count of 'loss of consortium, be it 'filial', 'spousal' or 'parental', which also comprehends 'loss of love and affection'. As per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, the minimum amount payable is Rs.40,000/-. While applying enhancement clause to the extent of 10%, after every three years of passing of the judgment, the amount of compensation payable is Rs.48,400/- i.e. Rs.48,400x4=**Rs.1,93,600/-**. On the similar parameters, even on the count of 'loss of estate' and 'funeral expenses', the amount now payable is **Rs.18,150/-** on each count.

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

Loss of dependency	Rs.44,89,955/-
Loss of consortium	Rs.1,93,600/-
Funeral expenses	Rs.18,150/-
Loss of estate	Rs.18,150/-
Total	**Rs.47,19,855/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.47,19,855-36,97,000=Rs.10,22,855/-**. On the enhanced amount of the compensation i.e. **Rs.10,22,855/-**, the appellants-claimants, shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the appeal, till realization of the enhanced amount of compensation. Out of the enhanced compensation, as now worked upon, i.e. **Rs.10,22,855/-**, appellants-claimants No.3 and 4 are held entitled to **Rs.1,00,000/-** each, whereas, appellant-claimant No.2 is held entitled to **Rs.2,00,000/-** and appellant-claimant No.1 is held entitled to residual amount of **Rs.6,22,855/-**.

Accordingly, the impugned Award dated 17.08.2009 stands modified, to the extent, as indicated aforesaid.

With the above observations, the present appeal stands allowed.

April 10, 2026 **(ARCHANA PURI)**
Vgulati **JUDGE**

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