

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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FAO-1408-1992 (O&M)
Date of decision: 20.12.2023

Ashok Kumar and others

.....Claimant-Appellants

Versus

Tilak Raj and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Ashutosh Hoshiarpuri, Advocate for the appellants.

Mr. Jagjot Singh Lalli, Advocate
for respondent No.2-UOI.

AMAN CHAUDHARY, J.

1. The present appeal has been filed by the claimant-appellants for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Jalandhar (for short 'the Tribunal') vide award dated 25.07.1992, on account of death of Prem Lata Dhir in a motor vehicular accident.

2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for more than 31 years, the counsel for the parties have no objection, if the same is decided on the basis of the available record.

3. Learned counsel contends that the deceased, 37 years old at the relevant time, was posted as Senior Auditor in the office of Defence Pension Disbursing Officer, Kapurthala and getting salary of Rs.2,428/- per month, however, the Tribunal has wrongly assessed the monthly dependency to the tune of Rs.1500/-. The multiplier of 20 should have been applied. She left behind her husband and two children. The compensation awarded by the Tribunal is on the lower side. Nothing has been awarded towards funeral

expenses, future prospects of increase in income, loss of consortium and filial consortium to the children.

4. On the other hand, learned counsel for respondent No.2, who has appeared at the asking of the Court, after having gone through the paper book, submits that the Tribunal has assessed the compensation in light of the evidence led by the claimant-appellants, thus, prays for the dismissal of the present appeal.

5. Heard learned counsel on either side.

6. There is no dispute that the death of Prem Lata Dhir, occurred in a roadside accident caused by respondent No.1- driver. Pertinently, there is no challenge to the factum of the accident and manner of its taking place, as well as liability fastened upon the driver and owner to be joint and several, thus, no further scrutiny is warranted.

7. A perusal of the award reveals that there being three claimants, the Tribunal has rightly considered and assessed monthly dependency of Rs.1500/-. Gainfully referring to **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009(3) RCR (Civil) 77, **National Insurance Company Limited vs. Pranay Sethi and others** 2017(4) RCR (Civil) 1009, **Kirti vs. Oriental Insurance Co. Ltd.**, (2021) 2 SCC 166 and **Janabai vs. ICICI Lambord Insurance Co. Ltd.**, (2022) 10 SCC 512, the appellants are held entitled to grant of future prospects to the extent of 50%, the deceased being Govt. employee as also under the conventional heads i.e. Rs.18,000/- for funeral expenses, Rs.18,000/- for loss of estate and Rs.48,000/- loss of consortium to husband and Rs.96,000/- (48,000x 2) for filial consortium to the daughter and son. The deceased being 37 years, the multiplier of 15 ought to have been applied.

8. Consequently, the total compensation comes to Rs.5,85,000/-

(1500 (monthly dependency) + 50% (towards future prospects) x 12 x 15 (multiplier) +Rs.1,80,000/- (conventional heads). Thus, the enhanced compensation of Rs.3,85,000/-, over and above the amount of Rs.2,00,000/- already awarded by the Tribunal, alongwith interest at the rate of 7.5% per annum from the date of filing of the present appeal, till its realization, shall be paid to the claimant-appellants by the respondents, as ordered by the Tribunal, within a period of 2 months from the date of receipt of a certified copy of this judgment. Failing which, the amount shall accrue an interest as awarded by the Tribunal.

9. Modifying the award to the aforesaid extent, the present appeal is disposed of.

20.12.2023
Hemant

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No