

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

234

FAO-1502-1994

Date of decision : 24.11.2023

Rajbala and others

.....Claimant-Appellants

Versus

Pala Ram @ Rajpal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Ms. Nidhi, Advocate for
Mr. K.D. Sidhu, Advocate for the appellants.

Mr. Krishna Kant, Advocate
for respondent No.3-Insurance Company.

Mr. Jagdish Manchanda, Addl. A.G., Haryana.

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, Hisar (for short 'the Tribunal') vide award dated 02.04.1994, on account of death of Rishipal 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 25 years, the counsel for the parties have no objection, if the same is decided on the basis of the available record.
3. Learned counsel for the appellants states that the deceased, 35 years old at the relevant time, was an employee of HUDA, earning Rs.1200/- per month and also doing business of milk-dairy and earning Rs.2500/- per month. He left behind a wife, minor children and parents. The compensation assessed by the Tribunal is on the lower side with regard to funeral expenses. Nothing has been awarded by the Tribunal towards future prospects of increase in income, loss of consortium, loss of love and

affection.

4. On the other hand, learned counsel for the respondents submit that the Tribunal has assessed the compensation in light of the evidence led by the claimant-appellants, thus, they pray for the dismissal of the present appeal.

5. Heard learned counsel on either side and record perused.

6. There is no dispute with regard to the death of the deceased-Rishipal, occurred in a motor vehicular accident. So far as the fact of accident and manner of its taking place, as well as liability fastened upon the driver, owner and insurer of the offending vehicle, to be joint and several are concerned, it is pertinent to mention that no challenge to the same has been made and thus, this issue does not warrant any further scrutiny.

7. Perusal of the award reveals that there being no evidence of income of the deceased, the Tribunal has rightly considered it to be Rs.1200/- per month. However, with regard to the enhancement of the compensation, this Court can rightly fall back on the law laid down in **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 and **Janabai vs. ICICI Lambord Insurance Co. Ltd.**, (2022) 10 SCC 512 and accordingly holds the appellants entitled to grant of future prospects to the extent of 50%, he being a govt. employee and also for the compensation under the conventional heads i.e. Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate, and Rs.1,20,000/- (40,000 x3) for loss of love and affection to parents and minor son and Rs.40,000/- for loss of consortium to the wife. The deceased being 35 years, the multiplier of 16 should be applied. Further, there were

four dependents at that time, the deduction of 1/4th ought to be made.

8. Consequently, the total compensation comes to Rs.4,49,200/- (1200 (monthly income) x 50% (towards future prospects) - 1/4th (deduction towards personal expenses)x 12 x 16 (multiplier) +Rs.1,90,000/- (conventional head). Thus, the enhanced compensation of Rs.2,95,200/-, over and above the amount of Rs.1,54,000/- 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.

24.11.2023
Hemant

(AMAN CHAUDHARY)
JUDGE

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