

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

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FAO-2373-1994 (O&M)

Date of decision : 03.11.2023

Dalwinder Kaur and another

.....Appellants

Versus

Balwinder and Others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Bipan Sharma, Advocate for
Mr. S.M. Sharma, Advocate, for the appellants

None for respondent Nos. 1 and 2, driver and owner

Mr. Karminder Singh and Mr. P.S. Walia, Advocates
for the Insurance Company.

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, Amritsar (for short 'the Tribunal') vide award dated 13.02.1994, on account of death of Sukhdev Singh and the injuries suffered by Santokh Singh 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 and has been pending for more than 29 years.
3. Learned counsel for the appellant would contend that the deceased-Sukhdev Singh was 19/20 years old. He was working as an expert mechanic in a workshop and earning Rs.3000/- per month but the Tribunal erred in assessing his income as Rs.1500/- per month and also not granted any amount towards future prospects. No amount has been awarded under

conventional heads. He further contends that during the pendency of the claim petition, his father, appellant-Santokh Singh, 60 years old, who was also injured in the said accident, died. The injuries suffered by him were also multiple beneath both his legs, on account of which, he was unable to walk, however, only Rs.20,000/- was awarded, which is on the lower side.

4. On the other hand, the learned counsel for the Insurance Company has vehemently opposed the present appeal and states that the deduction towards personal expenses of the deceased, who was 20 years old, should have been taken as half, as he was bachelor and the multiplier of 18 is applicable. He further submits that there being no evidence of income, it has been rightly assessed by the Tribunal.

5. Heard the learned counsel for the parties and perused the record.

6. There is no dispute with regard to the death of the deceased, which occurred in a road side accident. The 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 notice that no challenge to the Award has been made and thus, this issue does not call for any scrutiny. Evidently, the deceased was 20 years old. There was neither any evidence of his working as a mechanic nor proof of income, thus, the Tribunal has in a just and appropriate manner decided the said aspect. However, as per the law laid down in the case of **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009(3) RCR (Civil) 77, which also reiterated in **National Insurance Company Limited vs. Pranay Sethi and others** 2017(4) RCR (Civil) 1009, the appellant is held entitled to grant of future prospects to the extent of 40%, he being self employed as

also under the conventional heads. Since, the deceased was a bachelor, the deduction of 1/2 ought to have been made towards his personal expenses but insofar the multiplier is concerned, the same should have been 18.

7. Accordingly, the total compensation comes to Rs.2,96,800/- (1500+ 40% (future prospects) -1/2 (deduction personal expenses) x 12 x 18 + 70,000 (Funeral expenses Rs.15000/-; loss of estate Rs.15,000/- and loss of love and affection Rs.40,000/-).

8. With regard to the compensation awarded on account of disability suffered by Santokh Singh, a 45 year old, handicap certificate produced as Ex.AW 3/5, was awarded only a sum of Rs.20,000/- on account of loss of earnings, capacity of loss of pain, suffering, loss of pleasure of life, gracious services, which being inadequate, is required to be enhanced to Rs.50,000/-.

9. In view of the above, the claimant-appellant is held entitled to the enhanced compensation of Rs.1,34,800/-, over and above the amount of Rs.2,12,000/- already awarded by the Tribunal. The enhanced amount alongwith interest @ 7.50% shall be paid to the claimants-appellants in the same ratio as was 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 mentioned in the Award.

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

03.11.2023
gsv/M.kamra

(AMAN CHAUDHARY)
JUDGE

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