IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

228/2

FAO-1018-1993 (O&M)
Date of decision : 23.11.2023

Leela Devi and others .....Claimant-Appellants

Versus

Kashmira Singh and others ..... Respondents

FAO-825-1993 (O&M)

Ram Piari and another .....Claimant-Appellants

Versus

Kashmir Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Amandeep Rana, Advocate,
for appellants in FAO-1018-1993 and
for respondent No.4 in FAO-825-1993.

Mr. Vivek Sharma Vashisht, Advocate,
for the appellants in FAO-825-1993.

Mr. Suvir Dewan, Advocate,
for respondent No.3-Insurance Company in both the appeals.
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AMAN CHAUDHARY, J.

1. The aforesaid appeals are being decided by a common judgment, as both have arisen from the same Award.

2. The present appeals have been filed by the claimant-appellants for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') vide award dated 02.02.1993, on account of death of Ramesh Singh in a motor vehicular accident.

3. These are reconstructed cases, as the original files were burnt in the fire that broke out in the concerned branch in the year 2011. Since these are pending for the last more than 30 years, the counsel for the parties have no objection, in case

the same are decided on the basis of available record.

4. Learned counsel appearing on behalf of appellants state in one voice that the deceased, 32 years old at the relevant time, was working as Home Guard and earning Rs.900/- per month, whereas, the Tribunal assessed his monthly dependency as Rs.600/-, which is inadequate. The compensation granted under the head of cremation and last rites is also on the lower side, whereas nothing has been awarded towards future prospects of increase in income, loss of consortium, loss of love & affection and funeral expenses. He left behind two wives, three minor children and a mother. However, learned counsel for the appellants in FAO-1018-1993 has objected to the validity of marriage of the deceased with Ram Piari, appellant No.1 in FAO-1018-2023.

5. On the other hand, the learned for the Insurance Company has vehemently opposed the present appeals and stated that just and reasonable compensation has already been awarded to the appellants. Thus, he prays for the dismissal of the present appeals.

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

7. There is no dispute with regard to the death of the deceased-Ramesh Singh, which occurred in a motor vehicular accident. In terms of the accident, the manner of its taking place, as well as liability fastened upon all the respondents, jointly and severally, it is pertinent to notice that no challenge to the Award has been made and thus, this issue does not warrant any further scrutiny.

8. With regard to the contention of the appellants in FAO-1018-1993, learned Tribunal has recorded the following findings:

> "After going through these letters, it will be clear that the matter regarding the legal representatives of Ramesh Singh was disputed and the Home Guard Department was insisting upon the rival claimants to produce a succession certificate regarding the succession of Ramesh Singh

> deceased. No such certificate is brought on the record of this case. Vide mark RX, a policy for personal accident was produced relating to Ramesh Singh and the assignees is recorded as Leela Devi. This document is also not signed by Ramesh Singh and it will not perse make Leela Devi as legally wedded wife of Ramesh Singh. It is not disputed that Leela Devi was living in village Bilaspur (Haryana), while Ram Piari was living in Khanna where Ramesh Singh was posted. As discussed above, the evidence brought on the record by the claimants in both the applications go to show that Ramesh Singh had married both Leela Devi and Ram Piari. From his marriage with them, Leela Devi had given births to a daughter Ranchna and son Sanjeev, while Ram Piari had given birth to Sanjeev minor son from her marriage with Ramesh Singh. Since it is not possible to pin point as to whether Leela Devi got married to Ramesh Singh first, or Ram Piari, it will not be appropriate to declare the marriage these claims applications, both of them are to be held to be widows of the deceased and hence, entitled to compensation, if any, alongwith their children born to them from their marriages with Ramesh Singh.(emphasis supplied)

9. This Court, upon a bare reading of the aforesaid finds that the Tribunal has after thorough examination of the evidence arrived at the right conclusion. No glaring defect in the procedure or any patent error has been shown to have been committed in ignorance of law, which may have resulted in any flagrant miscarriage of justice. Furthermore, since, no succession certificate by either of the parties had been placed on record even at this stage, therefore, the findings recorded by the Tribunal in that regard are hereby affirmed.

10. An perusal of the award reveals that the Tribunal has rightly assessed the monthly income of the deceased as Rs.900/-, there being no evidence of his income. However, with regard to the enhancement of the compensation, it would be worthwhile to place reliance 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 the appellants are held entitled to grant of future prospects to the extent of 40%, he being on a fixed salary and also for the compensation under the conventional heads i.e. Rs.15,000/- for funeral expenses; Rs.1,20,000/- (40,000 x3) for loss of love and affection to children and Rs.40,000/- (Rs.20,000/- to each wife for loss of consortium) and Rs.40,000/- for loss of love and affection to mother of the deceased. Further, there being six dependents, the deduction towards personal expenses of the deceased should have been made to the extent of 1/5th.

11. Accordingly, the total compensation comes to Rs.3,92,728/- (900 + 40% (towards future prospects)- 1/5th (deduction towards personal expenses x 12 x 18 (multiplier) +Rs.1,75,000/- (conventional head). Thus, the enhanced compensation of Rs.2,57,728/-, over and above the amount of Rs.1,35,000/- 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 in the ratio 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.

12. Modifying the award to the aforesaid extent, the present appeals are disposed of.

13. A copy of this order be placed on the file of connected case.

23.11.2023 **(AMAN CHAUDHARY)**
gsv/Ankur **JUDGE**

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