

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

235

FAO-1816-1995 (O&M)

Date of decision : 11.12.2023

Munni Devi and others

.....Claimant-Appellants

Versus

Matadin and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sandeep Kumar Yadav, Advocate, for the appellants.

Respondent No.1 died.

Mr. Jagdish Manchanda, Addl. AG, Haryana
for respondent Nos.2 & 3.**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, Narnaul (for short 'the Tribunal') vide award dated 28.04.1995, on account of death of Rajender Parshad 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 the last more than 28 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 contends that the deceased, 43 years old at the relevant time, was doing agricultural work, running a milk dairy and a shop in village Kanina, from which he was earning Rs.5000/- per month, however, his income has been assessed as 1200/- per month, which is inadequate. He left behind a wife and two minor children.

The compensation assessed by the Tribunal is on the lower side with regard

to the funeral expenses. Nothing has been awarded towards future prospects of increase in income, loss of consortium and loss of love & affection.

4. On the other hand, learned counsel for respondent Nos.2 & 3 submits that the Tribunal has assessed the compensation in light of the evidence led by the claimant-appellants, thus, he prays for the dismissal of the present appeal.

5. Heard and perused.

6. It is not disputed that the death of the deceased-Rajender Parshad, had 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 respondent Nos.1 to 3, 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 warrant any further scrutiny.

7. Perusal of the award reveals that there being no evidence of the income of the deceased, the Tribunal has rightly assessed the annual dependency to the tune of Rs.1200/-. However, with regard to the enhancement of the compensation, reliance can be placed 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 Lombard Insurance Co. Ltd.**, (2022) 10 SCC 512 and accordingly the appellants are held entitled to grant of future prospects to the extent of 25%, he being self-employed and also for the compensation under the conventional heads i.e. Rs.15,000/- for funeral expenses; Rs.15,000/- for loss of estate; Rs.80,000/- (40,000 x 2) for loss of love and affection to two minor children and Rs.40,000/- loss of consortium to wife. The deceased

being 43 years, the multiplier of 14 should be applied and also there were three dependents, the deduction of 1/3rd ought to be made on account of personal expenses of the deceased.

8. Consequently, the total compensation comes to Rs.3,18,000/- (1200 + 25% (towards future prospectus) – 1/3rd (deduction towards personal expenses) 12 x 14 (multiplier) +Rs.1,50,000/- (conventional head). Thus, the enhanced compensation of Rs.1,84,000/-, over and above the amount of Rs.1,34,000/- 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 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.

11.12.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

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