

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

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FAO-2442-1995 (O&M)
(MACT case No.141 of 1993)
Date of decision :14.11.2023

Sukhdev Singh and others

.....Appellants

Versus

Satish Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Ms.Ishita Negi, Advocate for
Mr.Suresh Kumar Kaushik, Advocate for the appellants

Mr. Jagdish Manchanda, Addl.AG, Haryana

Mr.Ashwani Talwar, Advocate
for respondent No.4-Insurance Co.

AMAN CHAUDHARY, J.

1. The claimant-appellants have filed the present appeal seeking enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') vide award dated 31.08.1995, on account of death of Arun Kumar 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. Since the case is pending for the last more than 28 years, both the counsel have no objection, in case the same is decided on basis of the available record.

3. Learned counsel for the appellants contends that the deceased, an unmarried 27 years old, working as a security guard and also by doing business of milk dairy, was earning Rs.5000/- per month, however, the learned Tribunal assessed his income at Rs.1,500/- per month, which is incorrect. The multiplier of 13 applied by the Tribunal is not as per the law laid down in **Sarla Verma and**

others vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77.

Further, only a meagre amount of Rs.5000/- was awarded towards funeral expenses etc. Thus, she prays for enhancement of the compensation.

4. On the other hand, the learned State counsel has vehemently opposed the present appeal and states that the deceased was unmarried, despite that 1/3rd deduction towards personal expenses was wrongly made, however, it should be half.

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-Arun Kumar, unmarried son of the appellants, occurred in a road side accident. So far as the fact of accident and manner of its taking place, as well as liability fastened upon the driver and owner of the offending vehicle, to be joint and several are concerned, it is pertinent to mention that no challenge to the Award has been made and thus, this issue does not warrant any further examination. During the pendency, appellant No.2, who was the mother of the deceased, is said to have died and vide order dated 12.03.1992, her legal heirs were brought on record. Before the Tribunal, no evidence with regard to the income of the deceased was produced and proved by the appellants, despite which his income was assessed as Rs.1500/- per month, which is adequate. Further, as per the law laid down in the case of **Sarla Verma (supra)**, reiterated in **National Insurance Company Limited vs. Pranay Sethi and others 2017(4) RCR (Civil) 1009**, the claimant-appellants are held entitled to grant of future prospects to the extent of 40%, he being self employed, as also under the conventional heads of Rs.55,000/- (funeral expenses to Rs.15,000/- and Rs.40,000/- to appellant No.1 for loss of love and affection). Since, the deceased was 27 years, the multiplier of 17 and the parents being the dependents, the deduction of half should have been applied.

7. Accordingly, the total compensation for loss of dependency comes to Rs.2,69,200/- (1500 + 40% (towards future prospects) - 1/2 (deduction towards personal expenses) x 12 x 17 (multiplier) + Rs.55,000/-. The enhanced compensation of Rs.1,75,940/-, over and above already awarded i.e. Rs.93,260/-, alongwith interest thereon at the rate of 7.5% per annum from the date of filing of the present appeal, 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.
8. Modifying the award to the aforesaid extent, the present appeal is disposed of.

14.11.2023
gsv/M.kamra

(AMAN CHAUDHARY)
JUDGE

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