

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

234

FAO-327-1995

Date of decision: 14.12.2023

Ranjit Kaur and another

.....Claimant-Appellants

Versus

Sher Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. B.S. Chauhan, Advocate for the appellants.

Mr. Vinod Chaudhari, Advocate
for respondent No.3-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, Panipat (for short 'the Tribunal') vide award dated 03.10.1994, on account of death of Maghar 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 in the year 2011. Since the case is pending for 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 contends that the deceased, 40 years old at the relevant time, was working as driver and earning Rs.4,000/- per month, however, the Tribunal assessed his income as Rs.1,000/- per month, which is inadequate. He left behind his parents. The compensation awarded by the Tribunal is on the lower side. Nothing has been awarded towards funeral expenses, future prospects of increase in income, loss of love and affection.
4. On the other hand, learned counsel for respondent No.3 has

appeared on the asking of the Court. He after having gone through the paper book, 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 learned counsel on either side.

6. There is no dispute with regard to the death of Maghar Singh in a roadside accident caused by respondent No.1- driver. In 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 taken it to be Rs.1,000/- per month. Further, on strength of 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, this Court holds the appellants entitled to enhancement of compensation by granting them future prospects to the extent of 25%, the deceased being self employed as also under the conventional heads i.e. Rs.18,000/- for funeral expenses, Rs.18,000/- for loss of estate, and Rs.96,000/- (48,000 x 2) for loss of love and affection to the parents. The deceased being 40 years, the multiplier of 15 should be applied. Further, there were two dependents at that time, the deduction of 1/2 ought to be made.

8. Consequently, the total compensation comes to Rs.2,44,500/- (1000 (monthly income) + 25% (towards future prospects) - 1/2 (deduction

towards personal expenses)x 12 x 15 (multiplier) +Rs.1,32,000/- (conventional heads). Thus, the enhanced compensation of Rs.1,78,500/-, over and above the amount of Rs.66,000/- 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.

14.12.2023
Hemant

(AMAN CHAUDHARY)
JUDGE

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