

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

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FAO-569-1995 (O&M)
Date of decision : 12.12.2023

Chinti and another

.....Claimant-Appellants

Versus

Kartar Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. R.S. Dhanda, Advocate, for the appellants.

Mr. Neeraj Khanna, Advocate for respondent No.5-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, Jalandhar (for short 'the Tribunal') vide award dated 16.08.1994, on account of death of Joginder Pal 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 would contend that the deceased-Joginder Pal was 29 years old. He was earning Rs.3000/- per month by working as Mason and also running a dairy farm but the Tribunal erred in assessing his income as Rs.1000/- per month. He left behind a minor son and mother. Nothing has been awarded towards future prospects of increase in income, loss of love & affection and funeral expenses.

4. On the other hand, learned counsel for the insurance company

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 the learned counsel for the parties and perused the record.

6. There is no dispute with regard to the death of the deceased-Joginder Pal, which 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 No.5-Insurance Company, it is pertinent to notice that no challenge to the Award has been made and thus, this issue does not warrant any further scrutiny. Evidently, the deceased was 29 years old but there being neither any evidence of his income, the Tribunal has rightly assessed it to be Rs.1000/- per month. However, as per 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 this Court finds it to be a fit case for enhancement of compensation and holds the appellants entitled to grant of future prospects to the extent of 40%, he being self-employed and also for the compensation under the conventional heads i.e. Rs.15,000/- for funeral expenses and Rs.80,000/- (40,000 x 2) for loss of love and affection to minor son and mother. Further, there being two dependents, deduction of 1/3rd ought to be made.

7. Consequently, the total compensation comes to Rs.2,85,536/- (1000 + 40% (towards future prospectus) – 1/3rd (deduction towards

personal expenses) 12 x 17 (multiplier) + Rs.95,000/- (conventional head).
Thus, the enhanced compensation of Rs.2,35,536/-, over and above the amount of Rs.50,000/- 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.

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

12.12.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned

:

Yes / No

Whether reportable

:

Yes / No