IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.2456 of 2001
Date of Decision: 04.01.2023

Sat Pal

…Appellant

Versus

Nishan Singh and others

…Respondents

2. **FAO No.2458 of 2001**

Sat Pal and others

…Appellants

Versus

Nishan Singh and others

…Respondents

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Ramender Chauhan, Advocate appearing for
Mr. Sunil Panwar, Advocate
for the appellants.

Service of notice upon respondents No.1 and 2 in both the appeals already dispensed with vide the order dated 07.03.2022.

Mr. Neeraj Khanna, Advocate
for respondent No.3-Insurance Company.

MEENAKSHI I. MEHTA, J.

Both the above-captioned appeals are being taken up together for discussion and adjudication as these have arisen out of the common Award passed by learned Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') on 30.09.2000, whereby two claim petitions, one filed by appellant-claimant Satpal and the other one, as moved by him (Satpal), along-with the appellants-claimants namely Ram Piari, Beena Rani and Nisha Rani (all the appellants-claimants, here-in-after, to be referred as 'the claimants') for seeking compensation on account of the death of Krishan and Ram Murti in a motor vehicular accident as well as another claim petition filed by injured Laxmi Devi, have been decided.

2. As per the brief factual-matrix culminating in the filing of the present appeals, on the ill-fated day, i.e 08.10.1998, said Ram Murti, along-with her minor son Krishan, the afore-named injured and one Nasib Singh, was travelling from Ambala City to her Village Godhapur on the Tractor bearing registration No.HYE-5689 and was sitting on its mud-guard while holding her above-said son in her lap and this Tractor was being driven at a moderate speed, on the correct side on the road. When they reached near Village Mehmadpur, a Truck having registration No.HR-37-2848 (for short 'the offending vehicle'), came from the back side and it was being driven by respondent No.1 in a rash and negligent manner at a very high speed and it hit the said Tractor. All the afore-named persons suffered multiple injuries in this accident and Ram Murti and her son Krishan succumbed to their injuries at the spot. In FAO No.2456 of 2001, appellant-claimant Satpal is the unfortunate father of deceased Krishan and FAO No.2458 of 2001 pertains to the death of Ram Murti, who was his (Satpal's) wife and the mother of the remaining appellants-claimants.

3. Respondents No.1 and 2, the respective driver and owner of the offending vehicle, filed their joint written statement whereas respondent No.3, the insurer of the said vehicle, filed its separate written statement

contesting the claim, as canvassed by the claimants in their petitions, on several grounds. Then, the Tribunal put the parties to the trial by framing the issues on 23.08.1999 and after appreciating and evaluating the evidence as led by the parties on the record and hearing their counsel, the Tribunal passed the impugned Award, granting a sum of Rs.75,000/- to claimant Satpal as compensation on account of the death of his minor son Krishan and awarding the amount of Rs.2,71,200/- to the claimants in the second petition, as compensation for the death of Ram Murti and both the instant appeals have been preferred by the claimants for seeking the enhancement of the amount of compensation.

4. It is pertinent to mention here that the service of notice upon respondents No.1 and 2 in both the appeals, had been dispensed with by the Co-ordinate Bench, vide the order dated 07.03.2022.

5. I have heard learned counsel for the appellants-claimants as well as learned counsel for respondent No.3-Insurance Company in these appeals and have also perused the files carefully.

FAO No.2456 of 2001

6. Learned counsel appearing for the appellant-claimant Satpal has contended that deceased Krishan, who was about 1½ years old at the time of his death in the said accident, was the only son of the claimant but however, the Tribunal has awarded a meager amount of Rs.75,000/- as compensation, in lump-sum, which is quite inadequate and unjustified as well and moreover, no compensation has been granted towards the loss of filial consortium and the funeral expenses and in these circumstances, the

claimant is entitled to the enhancement of the amount of compensation accordingly. To buttress his contentions, he has placed reliance upon the verdict as rendered by Hon'ble the Supreme Court in ***Kurvan Ansari @ Kurvan Ali and another Versus Shyam Kishore Murmu and another, 2022(1) RCR (Civil) 165*** to the effect that "*where a claim petition was filed for seeking compensation on account of the death of a child, aged seven years and not an earning member, the fixing of notional income at Rs.15,000/- per annum was not just and reasonable and it was a fit case to increase the notional income by taking into account the inflation, devaluation of rupee and cost of living and the notional income of the deceased was to be assessed at Rs.25,000/- per annum*".

7. However, learned counsel for respondent No.3-Insurance Company has argued that the claimant has already been awarded sufficient amount as compensation and therefore, he does not deserve any further enhancement in the same.

8. Taking the above-cited observations, as made by the Apex Court in ***Kurvan Ansari @ Kurvan Ali and another (supra)***, as the guiding factor, the notional income of the deceased is assessed at Rs.25,000/- per annum and by applying the multiplier of '15' to the same, the amount of compensation is calculated to be (Rs.25,000x15)=Rs.3,75,000/-. Besides this amount, the claimant is also granted a sum of Rs.40,000/- for the loss of filial consortium and another amount of Rs.15,000/- towards the funeral expenses.

9. Resultantly, the enhanced amount of compensation, as shall be

payable to the claimant, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Compensation	Rs.75,000/-	Rs.3,75,000/-	Rs.3,00,000/-
Loss of Filial Consortium	NIL	Rs.40,000/-	Rs.40,000/-
Funeral expenses	NIL	Rs.15,000/-	Rs.15,000/-
Enhanced amount of compensation:			**Rs.3,55,000/-**

10. As a sequel to the fore-going discussion, **FAO No.2456 of 2001** is hereby allowed to the effect that claimant Satpal is entitled to the net enhanced compensation of **Rs.3,55,000**/-, over and above the amount of Rs.75,000/- as already awarded to him and the said enhanced amount shall carry the interest @ 7.5% per annum from the date of filing of the claim petition till its realization and shall be payable to the claimant in the same terms as mentioned in the impugned Award.

FAO No.2458 of 2001

11. Learned counsel appearing for the appellants-claimants has contended that the Tribunal assessed the monthly income of deceased Ram Murti as Rs.1800/- and deducted Rs.520/- towards her personal expenses and while applying the multiplier of '17', it awarded Rs.2,61,120/- to the claimants for the loss of dependency and Rs.10,000/- towards her funeral expenses but it did not award any compensation for the future prospects, loss of consortium and loss of estate and even the compensation given for the funeral expenses, is also on the lower side and therefore, the claimants deserve the enhancement of the amount of compensation accordingly.

12. However, learned counsel for respondent No.3 has argued that the amount of compensation, as has been awarded to the claimants vide the impugned Award, is perfectly justified and reasonable and hence, they have no occasion to ask for any further enhancement in the same.

13. The Tribunal has assessed the monthly income of the deceased @ Rs.1800/- while taking the rate of the daily wages payable to a labourer, as was prevalent at the time of the above-said accident. Undisputedly, the deceased was in the age group of 31-35 years at the time of this accident. Therefore, in view of the judgment handed down by the Constitution Bench of Hon'ble the Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and Others 2017(16) SCC 680***, an amount equivalent to 40% of her afore-assessed income is to be added therein on the count of the future prospects and when so added, her monthly income comes out to be (1800+720)=Rs.2520/-.

14. Keeping in view the fact that all the four above-said claimants were the dependents of the deceased, $1/4^{th}$ of her (deceased's) monthly income, i.e Rs.630/-, has to be deducted towards her personal expenses, leaving the remaining amount of Rs.1890/- to be counted towards the dependency of the claimants. Their annual dependency, thus arrived, would be (Rs.1890/-x12)=Rs.22,680/-. In view of the observations as made by the Apex Court in ***Sarla Verma and Others vs. Delhi Transport Corporation and Anr. 2009(6) SCC 121***, the multiplier of '16' would be applicable and when so applied, the sum of compensation comes out to be (Rs.22,680x16) =Rs.3,62,880/-. Besides the afore-said amount, claimant No.1 is granted a

sum of Rs.44,000/- towards loss of spousal consortium and claimants No.2 to 4 are also awarded an amount of Rs.44,000/- each for the loss of parental consortium. The claimants shall be entitled to an amount of Rs.16,500/- for the loss of estate and another sum of Rs.16,500/- as the funeral expenses.

15. Resultantly, the enhanced amount of compensation, as shall be payable to the claimants, is worked out as under:-

Head	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**	**Enhancement**
Dependency	Rs.2,61,120/- (rounded off as Rs.2,61,200/-)	Rs.3,62,880/-	Rs.1,01,680/-
Loss of Consortium	NIL	Rs.1,76,000/- (Rs.44,000/-x4)	Rs.1,76,000/-
Loss of Estate	NIL	Rs.16,500/-	Rs.16,500/-
Funeral expenses	Rs.10,000/-	Rs.16,500/-	Rs.6500/-
Total compensation:			**Rs.3,00,680/-**

16. In view of the above-discussed facts and circumstances, **FAO No.2458 of 2001** is hereby allowed to the effect that claimants Satpal, Ram Piari, Beena Rani and Nisha Rani are entitled to the net enhanced compensation amounting to **Rs.3,00,680**/-, over and above the amount of Rs.2,71,200/- as already awarded to them and the said enhanced amount shall carry the interest @ 7.5% per annum from the date of filing of the claim petition till its realization and shall be payable to the claimants in the same terms as mentioned in the impugned Award.

(MEENAKSHI I. MEHTA)
JUDGE

04th January, 2023
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Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*