

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-8092-2015 (O&M)

Smt. Darshan Devi and others Appellants

Versus

Ashok Kumar and others Respondents

FAO-1669-2016 (O&M)

Smt. Lucky Appellant

Versus

Ashok Kumar and others Respondents

Date of Decision: 18.01.2023

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Parveen Kumar Rohilla, Advocate,
for the appellants in FAO-8092-2015.

Mr. Neeraj Saini, Advocate, for
Mr. Shilak Ram Hooda, Advocate,
for the appellant in FAO-1669-2016.

Mr. Suvir Dewan, Advocate,
for respondent No.3-Insurance Company.

RAJBIR SEHRAWAT, J. (ORAL)

This shall dispose of aforesaid two appeals, i.e. FAO-8092-2015 and FAO-1669-2016, passed by the Motor Accident Claims Tribunal, Panipat (in short, 'the Tribunal'), whereby an amount of Rs.11,71,000/- has been awarded to the claimants on account of motor vehicle accident death of Sandeep Dahiya.

For the purpose of the present appeal, the parties would be referred to as they were described in the original claim petition filed before

the Tribunal.

The brief facts, as involved in the present case, are that on 11.06.2012, Jasbir and his brother Sandeep Dahiya were going to Panipat on separate motorcycles. Sandeep Dahiya was going ahead on his motorcycle bearing registration No.HR06M-6033. When they reached between the two canals in the area, then the offending Swaraj Mazda bearing registration No.HR61-1300 (hereinafter referred to as, 'offending vehicle') came from Panipat side, being driven by respondent No.1, in a rash and negligent manner at a very high speed. The offending vehicle struck against the motorcycle of Sandeep Dahiya, who fell down. The driver of the offending vehicle was apprehended on the spot. As a result of the injuries, Sandeep Dahiya expired. On account of the said accident, FIR No.411 dated 12.06.2012 was registered under Sections 279 and 304-A of the Indian Penal Code at Police Station Model Town, Panipat, against respondent No.1. With these facts, the appeal was filed by asserting that the deceased was 25 years of age on the date of accident. He was working as a Production Supervisor with M/s Kailash Chand Mundra (Contractor), working with Devgiri Export Company, Gohana Road, Panipat, on a monthly salary of Rs.7,000/-. Hence, the compensation to the tune of Rs.30,00,000/- was claimed.

Parties led their respective evidence. After appreciating the evidence, the Tribunal awarded an amount of Rs.11,71,000/-. While awarding the aforesaid amount, the Tribunal has assessed the amount of Rs.7,000/- per month as income of the deceased. One-fourth of the said

amount was applied as deduction. Therefore, the annual dependency of Rs.63,000/- was assessed. Multiplier of 17 was applied. Accordingly, the compensation was calculated. Besides this, an amount of Rs.10,000/- was granted as loss of estate, Rs.30,000/- was granted on account of loss of love and affection and Rs.10,000/- was awarded on account of transportation and Rs.10,000/- was awarded for funeral and last rites expenses. Besides this, the consortium at the rate of Rs.40,000/- was awarded in favour of the only widow but not to the other claimants.

Arguing the case, learned counsel for the appellants has submitted that the deceased was 28 years of age. He had very bright future. Despite that, the Tribunal did not award the benefit of future prospects of the deceased while calculating the compensation amount. This is the violation of the judgment rendered by Hon'ble the Supreme Court in the case of ***National Insurance Company Limited Versus Pranay Sethi and others, (2017) 16 SCC 680***. As per this judgment, the claimants are entitled to the benefit on account of future prospects of the deceased at the rate of 40% of the assessed income. Besides this, the claimants, other than the widow, were also entitled to benefit of consortium at the rate of Rs.44,000/- each. Even that has not been granted. The loss of estate is also assessed on the lower side. The same is required to be assessed as Rs.16,500/-. Even the funeral expenses were not awarded as per law laid down by Hon'ble the Supreme Court and the same are liable to be enhanced to Rs.16,500/-.

On the other hand, learned counsel for respondent No.3- Insurance Company has submitted that the award has rightly been passed by

the Tribunal. Therefore, the claimants are not entitled to any enhancement. However, the learned counsel has not been able to rebut the contention of the counsel for the appellants/claimants qua the law laid down by Hon'ble the Supreme Court or qua the facts regarding award of compensation as submitted by the learned counsel for the appellants/claimants.

Therefore, following the judgment of Hon'ble the Supreme Court rendered in the case of *Pranay Sethi* (supra), the amount of compensation awarded to the appellants deserves to be enhanced to bring the same in terms of the judgment rendered by Hon'ble the Supreme Court. Hence, the claimants are held entitled to claim the compensation as given below:-

Sr. No.	Head	Amount assessed
1	Monthly Income	Rs.7,000 per month
2	Future Prospects @ 40%	Rs.2,800
3	Total Monthly Income	Rs.7,000 + Rs.2,800 = Rs.9,800/-
4	Deduction @ ¼	Rs.2450
5	Monthly Dependency	Rs.9,800 – Rs.2,450/- =Rs.7,350/-
6	Annual Dependency	Rs.7,350 X 12 = Rs.88,200
7	Multiplier	17
8	Loss of Dependency	Rs.88,200 X 17 = Rs.14,99,400
9	Loss of consortium @ Rs.44,000/- each	Rs.1,32,000/-
10	Loss of Estate	Rs.16,500
11	Funeral Expenses	Rs.16,500
	Total Compensation	Rs.16,64,400
	Compensation Awarded By the Tribunal	Rs.11,71,000
	Enhanced Compensation	Rs.16,64,400 – Rs.11,71,000 =Rs.4,93,400
	Interest @ 7.5% (From 16.10.2015 to 18.01.2023)	Rs.2,44,799.87 P
	Total	Rs.7,38,199.87 P

The interest on the enhancement amount is taken as was granted by the Tribunal.

Further more, the appellants in FAO-8092-2015 have asserted that respondent No.4, i.e. widow of the deceased, has since re-married. This assertion has not even been denied by the respondent No.4. Therefore, as of today, neither respondent No.4 is a legal heir of the deceased nor she is entitled to the amount of compensation on equitable grounds. Therefore, the enhanced components of the compensation shall be paid only to the parents and minor son of the deceased-Sandeep Dahiya.

In view of the above, the award passed by the Tribunal is modified in the aforesaid terms and the appeals are disposed of accordingly.

All pending miscellaneous application(s), if any, stands disposed of as such.

(RAJBIR SEHRAWAT)
JUDGE

18.01.2023
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No