IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-960-1993 (O&M)
Date of decision: 29.01.2024

Chander Kala and others .....Claimant-Appellants

versus

Subramaniam and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellants.

Mr. Amit Kumar Goyal, Advocate
for respondent No.7- 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, Rewari (for short 'the Tribunal') vide award dated 25.03.1991, on account of death of Mool Chand 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 32 years, learned counsel for respondent No.7 has no objection, if the same is decided on the basis of the available record.

3. In the grounds of appeal, it has been stated that the deceased, 35 years old at the relevant time, was working as a technician and earning Rs.2518/- per month. He left behind his wife and three minor children, however, the Tribunal has assessed the monthly dependency to the tune of Rs.1400/- per month, which is on the lower side. No amount has been awarded towards conventional heads, funeral expenses and loss of estate.

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

has opposed the present appeal and stated that the compensation awarded by the Tribunal is just and reasonable. Thus, she prays for the dismissal of the present appeal.

5. Heard and perused.

6. There is no dispute that the death of Mool Chand occurred in a roadside accident caused by respondent No.1- driver. Pertinently, since there is no challenge to the factum of the accident, the manner of its taking place, as well as liability to pay compensation fastened upon the insurance company, thus, no further scrutiny is warranted.

7. Perusal of the award it reveals that there being no income proof proved on record, the Tribunal has taken the monthly income of the deceased as Rs.2,100/-, which cannot be faulted with. For the aspect of enhancement of compensation, this Court can make a profitable reference to the law laid down in **Sarla Verma vs. DTC,** (2009) 6 SCC 121, involving an accident with a bus belonging to the Delhi Transport Corporation, on 18.04.1988, causing the death of a Scientist, working in the Indian Council of Agricultural Research, and vide award dated 06.08.1993, Motor Accidents Claims Tribunal, New Delhi partly allowed the claim and granted compensation of Rs. 5,79,000/-, which, when challenged before the High Court was enhanced to Rs. 7,19,624/- in a judgment dated 15.02.2007. Being not satisfied therefrom, when the claimants approached Hon'ble the Supreme Court, which after considering a catena of judgments, increased the same to Rs. 8,84,870/- and observed that an objective approach should be adopted for arriving at just compensation and elaborating thereupon it was held that there should be a uniformity while calculating the same, relating to increase in future prospects, deduction towards personal expenses of the

deceased, multiplier to be applied and also grant of lump sum amount under the heads of (a) loss of estate, (b) loss of consortium and (c) funeral expenses. In **Janabai vs. ICICI Lambord Insurance Co. Ltd.,** (2022) 10 SCC 512, an accident occurred on 01.06.2007, causing the death of the deceased, who was riding a motorcycle and got struck by a car, the Tribunal awarded the claimants compensation amounting to Rs.8,90,000/-, which was challenged by the Insurance company, and the claim was dismissed. However, on approaching Hon'ble the Supreme Court, the judgment was set aside and they were granted Rs. 11,63,000/- as enhanced compensation in view of **National Insurance Co. Ltd. vs. Pranay Sethi,** (2017) 16 SCC 680, wherein it had been additionally held that, "Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

8. Consequentially, the claimants-appellants are entitled to enhancement of compensation by granting them future prospects to the extent of 40%, being self employed and also for the compensation under the conventional heads i.e. Rs.36,000/- for funeral expenses and loss of estate; Rs.1,44,000/- (48,000 x 3) for filial consortium to the three minor children and Rs.48,000/- for loss of consortium to wife. The deceased being 35 years, the multiplier of 16 was rightly applied. Further, there were four dependents, the deduction of 1/4 ought to be made.

9. Accordingly, the total compensation comes to Rs.6,51,360/- (2100 (monthly income) + 40% (towards future prospects) - 1/4th (deduction towards personal expenses) x 12 x 16 (multiplier) + Rs.2,28,000/- (conventional head). Thus, the enhanced compensation of Rs.3,82,560/-,

over and above the amount of Rs.2,68,800/- already awarded by the Tribunal, alongwith interest at the rate of 7.5% per annum, in view of the judgment in **Dharampal vs. U.P. SRTC**, (2008) 12 SCC 208, from the date of the passing of the award, till its realization, shall be deposited, 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, it shall accrue an interest as awarded by the Tribunal.

10. The said amount be kept in FDR, earning the maximum rate of interest till its disbursal to the claimant-appellants.

11. The Tribunal is directed to make earnest efforts to release the amount to the claimant-appellants at the earliest, in accordance with law.

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

13. Registry is directed to send a copy of the judgment to the concerned Tribunal for necessary compliance.

(AMAN CHAUDHARY)
JUDGE

29.01.2024
M.Kamra

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