IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1185-1994 (O&M)
Date of decision: 24.01.2024

Ram Pati and others .....Claimant-Appellants

versus

State of Haryana and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Vibul Aggarwal, Advocate for
Mr. Parveen Hans, Advocate, for the appellants.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

Mr. Dhruv Singh, Advocate for
Mr. Sunil Panwar, Advocate, for respondent No.2.

AMAN CHAUDHARY, J.

1. The present appeal has been filed by the claimant-appellant for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal') vide award dated 04.01.1994, on account of death of Partap 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 30 years, 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 contends that the deceased, 45 years old at the relevant time, was doing business of sale and purchase of cattle and earning Rs.10,000/- per month, however, the Tribunal has wrongly taken monthly dependency to be Rs.700/- per month. He left behind his wife and five children. The multiplier of 25 should have been applied instead of 13. The compensation awarded by the Tribunal is on the lower

side.

4. On the other hand, learned counsel for respondent Nos.1 to 3 have opposed the present appeal and stated that the compensation awarded by the Tribunal is just and reasonable. Thus, they pray for the dismissal of the present appeal.

5. Heard and perused.

6. There is no dispute that the death of Partap Singh occurred in a roadside accident caused by respondent No.2- driver. Pertinently, since there is no challenge to the factum of the accident, the manner of its taking place, as well as liability fastened upon respondent Nos.1 to 3, which is stated to be joint and several, thus, no further scrutiny is warranted.

7. 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 25%, 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.48,000 for loss of consortium to wife and Rs.2,40,000/- (48,000 x 5) for filial consortium to five children. The deceased being 45 years, the multiplier of 14 should be applied.

9. Accordingly, the total compensation comes to Rs.4,71,000/- (700 (monthly dependency) + 25% (towards future prospects) x 12 x 14 (multiplier) + Rs.3,24,000/- (conventional head). Thus, the enhanced compensation of Rs.3,60,000/-, over and above the amount of Rs.1,11,000/- 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 paid to the claimant-appellant, 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.

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

(AMAN CHAUDHARY)
JUDGE

24.01.2024
ashok/ankur

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