IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-422-1994 (O&M)
Date of decision :08.01.2024

Budho Devi and another ...Claimant-Appellants

Versus

Ramesh Kumar and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Jagdish Manchanda, Advocate for the appellants.

Mr. Aman Kumar Sirswa for
Mr. Amit Kumar Goyal, Advocate for respondent No.3-
United India Insurance Company Ltd.

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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, Yamuna Nagar at Jagadhri (for short ‘the Tribunal’) vide award dated 02.12.1993, on account of death of Charan Dass 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 30 years, learned 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 was employed with Hindustan Tyre Service, Near Power House, Yamuna Nagar and earning Rs.1400/- per month, however, the Tribunal has wrongly assessed his monthly income as Rs.900/-. Further, as he was 25 years old at the time of accident, the multiplier of 20 should have been applied in view

of the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another,** 2009(3) RCR (Civil) 77. He was unmarried and left behind old aged parents. The compensation granted is on the lower side and nothing has been awarded towards future prospects of increase in income, loss of filial consortium to the parents, loss of estate and funeral expenses.

4. On the other hand, learned counsel for the Insurance Company has opposed the present appeal and submits that the Tribunal has assessed the compensation in light of the evidence led by the claimant-appellants, thus, prays for the dismissal of the present appeal.

5. Heard and perused the record.

6. There is no dispute that the death of the deceased-Charan Dass, occurred in a motor vehicular accident caused by respondent No.1-driver of the offending truck. Pertinently, since there is no challenge to the factum of the accident, the manner of its taking place, as well as liability fastened upon the driver, owner and insurer of the offending vehicle, to be joint and several, this issue does not warrant any further scrutiny.

7. Notably, the deceased was 25 years old but there being no evidence of his income, the Tribunal has rightly taken it to be Rs.900/- per month. However, with regard to the enhancement of the compensation, this Court can make a profitable reference to the judgment in **Sarla Verma** (supra), wherein after considering a catena of judgments, it was observed by Hon'ble the Supreme Court 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. Reiterating the above in **Janabai vs. ICICI Lambord Insurance Co. Ltd.,** (2022) 10 SCC 512 and **National Insurance Co. Ltd. vs. Pranay Sethi,** (2017) 16 SCC 680, it was 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 appellants are held 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.36,000/- for funeral expenses and for loss of estate and Rs.96,000/- (48,000 x 2) for filial consortium to the parents. Further, the deceased was 25 years, the multiplier of 18 should have been applied and also, he was unmarried, the deduction of 1/2 ought to be made.

9. Accordingly, the total compensation comes to Rs.2,68,080/- (Rs.900/- (monthly income) + 40% (towards future prospects)- 1/2 (deduction towards personal expenses) x 12 x 18 (multiplier) + Rs.1,32,000/- (conventional heads). Thus, the enhanced compensation of Rs.2,14,080/-, over and above the amount of Rs.54,000/- 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.

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

08.01.2024 **(AMAN CHAUDHARY)**
Ankur **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No