

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

247

FAO-424-1994

Date of decision: 10.01.2024

Leela Wanti and Another

.....Claimant-Appellants

versus

Shaminder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellants.

Mr. Vinod Chaudhari, Advocate
for respondent No.3-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, Faridkot (for short 'the Tribunal') vide award dated 20.09.1993, on account of death of Parveen Kumar 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 29 years, the counsel for the Insurance Company 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, 19 years old at the relevant time, was running a Video Cassette Shop and earning Rs.2,000/- per mensem, however, the Tribunal has wrongly assessed the annual dependency to the tune of Rs.10,000/-. The claimants are the parents of the deceased. The compensation awarded by the Tribunal is on the lower side.

4. On the other hand, learned counsel for respondent No.3 has

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

5. Heard and perused.

6. There is no dispute that the death of Parveen Kumar 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 fastened upon the driver, owner and Insurance Company to be joint and several, 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 annual dependency to the tune of Rs.10,000/-, 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, 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 Lombard 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 claimants-appellants are entitled to enhancement of compensation by granting them future prospects to the extent of 40%, being his own avocation and also for the compensation under the conventional heads i.e. Rs.36,000/- for funeral expenses and loss of estate; Rs.96,000/- (48,000 x 2) for filial consortium to the parents. The deceased being 19 years, the multiplier of 18 should be applied.

9. Accordingly, the total compensation comes to Rs.3,84,000/- (10,000 (annual dependency) + 40% (towards future prospects) x 18 (multiplier) + Rs.1,32,000/- (conventional head). Thus, the enhanced compensation of Rs.2,84,000/-, over and above the amount of Rs.1,00,000/- 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.

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

10.01.2024
M.Kamra

(AMAN CHAUDHARY)
JUDGE

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