

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

237

FAO-484-1994

Date of decision: 08.01.2024

Surinder Kaur and another

.....Claimant-Appellants

versus

Sukhdev Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellants.

Mr. Shubham Gupta, Advocate for
Mr. D.P. Gupta, Advocate
for respondent No.2-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, Sangrur (for short 'the Tribunal') vide award dated 15.10.1993, on account of death of Jasvir 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, 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, 24 years old at the relevant time, was working as an Accountant in the United Feed Mill, Ahmedgarh and earning Rs.1500/- per month, however, the Tribunal has wrongly taken it to be Rs.900/-. He left behind his parents, wife and one minor child. The compensation awarded by the Tribunal is on the lower side.

4. On the other hand, learned counsel for respondent No.2 has

opposed the present appeal and state that just and reasonable compensation has already been awarded to the appellant. Thus, he prays for the dismissal of the present appeal.

5. Heard and perused.

6. There is no dispute that the death of Jasvir Singh 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 respondent No.2-Insurance Company, this issue does not warrant any further scrutiny.

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.900/-, 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%, he being in a private job 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 parents and one minor child and Rs.48,000/- for loss of consortium to wife. The deceased being 24 years, the multiplier of 18 should be applied. Further, there were three dependents at that time, the deduction of 1/3 ought to be made.

9. Accordingly, the total compensation comes to Rs.4,09,440/- (900 (monthly income) + 40% (towards future prospects)- 1/3rd (deduction towards personal expenses) x 12 x 18 (multiplier) + Rs.2,28,000/- (conventional head). Thus, the enhanced compensation of Rs.3,01,440/-, over and above the amount of Rs.1,08,000/- 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 well as respondent Nos. 4 and 5, 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.

08.01.2024
Hemant

(AMAN CHAUDHARY)
JUDGE

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