

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

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**FAO No.1441 of 1993
Date of Decision : 30.4.2024**

*Bhatari and others**..... Appellants**versus**Rajinder Singh and others**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ajit Malik, Advocate, for the appellants/claimants

Respondent no.1 reported to have died

None for respondent no.2

Mr. Neeraj Khanna, Advocate, for respondent no.3/
Insurance company

TRIBHUVAN DAHIYA J.:

The appeal has been filed seeking enhancement of compensation awarded to the appellants-claimants by the Motor Accident Claims Tribunal, Jind (for short 'the Tribunal'), vide award dated 12.1.1993.

2. It is apparent on record that deceased Sukhbir Singh along with his helper Dharam Pal Singh was going on his camel cart, when it was hit by a truck driven by the first respondent and insured with the third respondent. The camel died at the spot and the cart also got damaged. Both, Sukhbir Singh and Dharam Pal Singh, received multiple injuries; the former succumbed to the injuries and died on 20.9.1991. The Tribunal, while deciding Issue no.1 held that the accident had taken place due to rash and negligent driving of truck by the first respondent /driver,

and decided the issue in favour of the appellants/claimants. While returning findings on Issue no.2, the Tribunal held that the deceased died at the age of forty years, and in the absence of any evidence about income, he was taken to be a labourer earning ₹1000 per month. A deduction of one-third from his monthly income was made on account of personal expenses. By applying multiplier of '16', compensation was assessed to be ₹1,34,400. Considering the facts of the case as well as evidence brought on record, the Tribunal awarded an amount of ₹6000 on account of loss of camel and the cart. In total, an amount of ₹1,40,000 with interest at the rate of fifteen per cent per annum was awarded to the claimants.

3. Learned counsel for the claimants has contended that the compensation awarded is on a lower side, and needs to be suitably enhanced. The deceased's income has been wrongly assessed, and the multiplier has also been wrongly applied. Besides, nothing has been awarded for future prospects and under the conventional heads.

4. Learned counsel for the Insurance company, on the contrary, contends that income of the deceased has been correctly assessed as per the prevalent wage rates of unskilled workers at that time. Besides, there is no evidence on record that he was skilled worker, employed anywhere or doing any business. The dependency has also been rightly assessed, which needs no change. He further contends that the multiplier has been wrongly applied, and the fifteen per cent rate of interest given on the amount of compensation is also on a higher side which needs to be suitably reduced keeping in view the prevalent rate of interest for the last two decades.

5. Arguments addressed by learned counsel for the parties have been considered.

6. So far as the assessment of compensation by the Tribunal on Issue no.2 is concerned, it needs to be suitably enhanced. The Tribunal has gone wrong in deducting one-third of the deceased's earning towards personal expenses, and assessing dependency of ₹8400 per annum only. As per law laid down by the Supreme Court in *Sarla Verma and others v. Delhi Transport Corporation and another*, (2009) 6 SCC 121, deduction of one fourth from the deceased's income towards personal and living expenses has to be made if the number of dependents is four to six. In the instant case, there are six dependents of the deceased, his widow, four minor children and an old father, who all are the claimants. Besides, he was about forty years of age at the time of death. Therefore, as per law multiplier of '15' should be applied, and the dependency is required to be assessed by deducting one-fourth of his income.

7. Further, the amount of compensation under the conventional heads and future prospects has not been awarded as per law settled in *National Insurance Company Limited v. Pranay Sethi and others*, (2017) 6 SCC 680, holding that claimants are entitled to an addition of twenty-five per cent to the deceased's income towards future prospects, if he was aged between forty to fifty years and not in a permanent employment. Further, reasonable figures under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be ₹15,000, ₹40,000 and ₹15,000 respectively. The aforesaid amounts should be enhanced at the rate of ten per cent every three years.

8. Accordingly, dependency of the deceased is to be assessed by

deducting one-fourth of the amount, instead of one-third from his income; and compensation under the conventional heads and future prospects is to be given as per the settled law. As a result, the appellants/claimants become entitled to the following amount of compensation:

Sr. No.	Head	Compensation awarded by this Court
1	Annual income (1000 x 12)	12,000
2	Future prospects @ 25% of annual income	3,000
3	Total income including future prospects	15,000
4	Deduction @ 1/4th towards personal expenses	3,750 (15,000-3750 = 11,250)
5	Multiplier (15), 11,250 x 15	1,68,750
6	Loss of consortium (with 10% increase)	48,400 x 6 =2,90,400
7	Funeral expenses (with 10% increase)	18,150
8	Loss of estate (with 10% increase)	18,150
9	Total amount of compensation	4,59,150

9. In view of the aforesaid discussion, the appeal is allowed and the Tribunal’s award, dated 12.1.1993, is modified to the extent the appellants/claimants are held entitled to enhanced compensation of ₹4,59,150 along with interest at the rate of seven per cent per annum, from the date of filing of the claim petition till its realisation. The liability to satisfy the award, share of the claimants, and the procedure of disbursal shall be as already determined by the Tribunal.

(TRIBHUVAN DAHIYA)
JUDGE

30.4.2024
Ashwani

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No