IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO.6669 of 2012 (O&M)
Date of Order:16.05.2024

Mohinder Pal and another **.Appellants**

Versus

Dhoom Chand and others **..Respondents**

FAO NO.6670 of 2012 (O&M)

Ram Karan and another **.Appellants**

Versus

Dhoom Chand and others **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: **Mr. Shantanu Bansal, Advocate, for the appellants.**

Mr. Sanjeev Kodan, Advocate
for respondent No.3-Insurance Company.

ANIL KSHETARPAL, J

CM-1426-CII-2023 in FAO NO.6669 of 2012
CM-4384-CII-2023 in FAO NO.6670 of 2012

1. For the reasons mentioned in these applications, which are supported by the affidavits, the delay of 2913 and 2254 days in filing the applications for restoration of the appeals is condoned.

2. CMs' stand disposed of.

CM-1427-CII-2023 in FAO NO.6669 of 2012
CM-4386-CII-2023 in FAO NO.6670 of 2012

3. For the reasons mentioned in these applications, which are supported by the affidavits, the applications are allowed and both the appeals are restored to its original number. Taken on Board.

4. CMs' stand disposed of.

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2024.05.27 10:17
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5. With the consent of the learned counsel representing the parties, these two connected appeals shall stand disposed of.

6. Late Sh. Guljinder Singh and late Sh. Harbans Lal lost their precious life in an automobile accident involving the collision of motorcycle and truck on 04.01.2011.

7. Before this Court, only the claimants have come up for the modification/enhancement of compensation awarded to them by the Tribunal. Late Sh. Guljinder Singh and late Sh. Harbans Lal were aged about 22 years and unmarried. Their parents have filed these appeals.

8. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

9. The learned counsel representing the appellants/claimants submits that the Tribunal has committed the following errors while awarding the compensation:-

(1) The income has not been assessed in accordance with the minimum wages prevalent at the time of accident;

(2) While calculating the amount, the multiplier commensurate to the age of the claimants/dependents has been taken, which is incorrect and it shall be applied in accordance with the age of the deceased;

(3) The Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') has failed to award the amount on account of increase in the income due to future prospects;

(4) Under the conventional heads, the appellants have been

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awarded only Rs.5000/- towards the funeral expenses.

10. The learned counsel representing the Insurance Company submits that the accident took place in the year 2011 and there is no evidence that the deceased were even working. He submits that the Tribunal has correctly assessed the compensation.

10. The learned counsel representing the appellants has contended that the deceased were working in a brick kiln when the accident occurred.

11. This court has considered the submissions of the learned counsel representing the parties.

12. The accident took place on 04.01.2011. Sufficient evidence has not been led to prove the income of the deceased.

13. Keeping in view the situation prevailing in the year 2011, the Tribunal has assessed the income @ Rs.4000/- per month. In absence of clear evidence, this court does not find it appropriate to modify the same. However, the award passed by the Tribunal suffers from the following patent errors:-

(1) The Tribunal has erred in applying the multiplier of 12 keeping in view the age of the parents, whereas, it should have been calculated on the basis of the age of the deceased. Hence, the appellants shall be entitled to compensation by applying multiplier of 18 and not 12.

(2) For loss of consortium, both the parents shall be entitled to Rs.40,000/- each i.e. Rs.80,000/- as filial consortium, Rs.15,000/- as funeral expenses and Rs.15,000/- for the loss of estate.

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(3) The dependency has been accordingly calculated at 50% of the income. There shall be increase in the income @ 40% on account of future prospects because both the deceased were only 22 years old.

14. Hence, the amount of compensation is re-worked as under:-

Ram Karan (FAO-6670-2012) (Late Sh. Guljinder Singh)

Heads	***Compensation awarded by MACT***	***Compensation awarded by High Court***
Monthly income	Rs.4000/-	Rs.4,000/-
Future Prospects	NIL	(40%) Rs.4000+1600=Rs.5,600/-
Deduction	(½) Rs.4,000-2,000=Rs.2000/-	(½) Rs.5,600-2800=Rs.2,800/-
Annual income	Rs.2,000x12=Rs.24,000/-	Rs.2,800x12=Rs.33,600/-
Multiplier	(12) Rs.24,000x12=Rs.2,88,000/-	(18) Rs.33,600x18=Rs.6,04,800/-
Filial consortium	NIL	Rs.40,000x2=Rs.80,000/-
Funeral expenses	Rs.5,000/-	Rs.15,000/-
Loss of Estate	NIL	Rs.15,000/-
Compensation awarded	Rs.2,93,000/-	Rs.7,14,800/-

Compensation Awarded by the High Court :Rs.7,14,800/-

(-) Compensation Awarded by the MACT :Rs.2,93,000/-

Enhanced Compensation **:Rs.4,21,800/-**

Mohinder Pal (FAO-6669-2012) (Late Sh. Harbans Lal)

Heads	***Compensation awarded by MACT***	***Compensation awarded by High Court***
Monthly income	Rs.4000/-	Rs.4,000/-
Future Prospects	NIL	(40%) Rs.4000+1600=Rs.5,600/-
Deduction	(½) Rs.4,000-2,000=Rs.2000/-	(½) Rs.5,600-2800=Rs.2,800/-
Annual income	Rs.2,000x12=Rs.24,000/-	Rs.2,800x12=Rs.33,600/-
Multiplier	(13) Rs.24,000x13=Rs.3,12,000/-	(18) Rs.33,600x18=Rs.6,04,800/-
Filial Consortium	NIL	Rs.40,000x2=Rs.80,000/-
Funeral	Rs.5,000/-	Rs.15,000/-

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expenses		
Loss of Estate	NIL	Rs.15,000/-
Compensation awarded	Rs.3,17,000/-	Rs.7,14,800/-

Compensation Awarded by the High Court :Rs.7,14,800/-

(-) Compensation Awarded by the MACT :Rs.3,17,000/-

Enhanced Compensation **:Rs.3,97,800/-**

15. With the aforesaid modifications, both the appeals are disposed of.

16. The enhanced amount of Rs.4,21,800/- in FAO No.6670 of 2012 and Rs.3,97,800/- in FAO No.6669 of 2012, shall carry interest @ 7.5% from the date of filing of the claim petition till its realization on the enhanced amount. However, for the period of delay in filing the restoration application, they shall not be entitled to interest

17. All the pending miscellaneous applications, if any, are also disposed of.

May 16, 2024 **(ANIL KSHETARPAL)**
nt **JUDGE**
Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO

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