IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

533

FAO No.4301 of 2002
Decided on : 14.11.2017

Smt.Amarjit Kaur and others

... Appellants

Versus

Balwinder Singh and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Vipul Sharma, Advocate for
Mr.Deepak Suri, Advocate for the appellant.
Mr.Gopal Mittal, Advocate for United India Insurance.

Avneesh Jhingan, J. (Oral)

The present appeal is against the award dated 10.5.2002 passed by the Motor Accidents Claims Tribunal, Kurukshetra (for short, 'the Tribunal').

The record of this case was burnt and has been reconstructed from the salvaged record and copies supplied by counsel subject to just exceptions.

The appeal has been filed for enhancement of the amount awarded by the Tribunal.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by legal heirs of deceased Balkar Singh.

Balkar Singh aged 45 lost his life in a motor vehicular accident that occurred on 13.11.2000. The offending vehicle in the said accident was tractor bearing registration No.HR-01-4598. Because of the injuries suffered in the accident, he lost his life. In the claim petition filed by the legal heirs of the deceased, the Tribunal awarded a sum of Rs.2,17,500/- along with interest at the rate of 9% per annum.

In the present case, the parties have not disputed the facts regarding involvement of the offending vehicle and the rash and negligent driving of the offending vehicle. Even the income of the deceased assessed by the Tribunal is not disputed. No dispute with regard to the multiplier applied by the Tribunal, is raised.

I have heard learned counsel for the parties and perused the paper-book.

Learned counsel for the appellants argues that the deceased was survived by a widow, four children and parents. Even if the father is excluded from the dependency, he was survived by 06 dependents, therefore, 1/4th deduction for self expenses should have been made. He further argues that the total amount of Rs.9500/- has been awarded under the conventional heads. The same is on the lower side.

Learned counsel for the Insurance company who was present in the Court and was handed over a copy of the paper-book, defended the award and resisted the enhancement.

The contention of the learned counsel for the appellants regarding 1/4th deduction for self expenses is duly covered by the decision of the Apex Court in case **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (civil) 77.**

As per the said decision, where the dependents are 4 to 6, the deduction of 1/4th has to be made. Since there is no dispute with regard to

the multiplier and income, loss of dependency is recalculated as under:-
Annual income – Rs.24000/-, 1/4th deduction on self expenses Rs.6000/-, applying multiplier of 13 X 18000= Rs.2,34,000/-.

The contention of the learned counsel for the appellants with regard to the conventional heads has to be authoritatively made by the Apex Court in case ***National Insurance Company Limited Vs.Pranay Sethi and Ors.* (Special Leave Petition (Civil) No. 25590 of 2014) decided on 31.10.2017.**

As per the said decision, the amount of Rs.70,000/- has to be awarded for conventional heads i.e. Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for consortium. Hence, the amount of conventional heads is enhanced to Rs.70,000/-.

The award dated 10.5.2002 is modified to the extent that the amount of Rs.2,17,500/- awarded by the Tribunal is enhanced to Rs.3,04,000/-.

The claimants shall be entitled to the enhanced amount along with interest at the rate of 6% per annum form the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

14.11.2017 [**Avneesh Jhingan**]
sd **Judge**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No