IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1320-2006 (O&M)
Date of decision: 15.12.2017

Ish Chhabra and another .... Appellants

Versus

Surinder and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Vinod K.Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr.Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3.

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Avneesh Jhingan, J.

The present appeal has been filed against the award dated 06.12.2005 passed by Motor Accidents Claims Tribunal, Sonepat (hereinafter referred to as the 'Tribunal').

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

Deepak Chhabra, aged 18 years, became a victim of a motor vehicular accident in which the offending vehicle was truck bearing registration No. HR-46/A-7121. As a result of the accident, he sustained injuries and lost his life.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal, after appreciating the facts and considering the evidence, awarded a sum of Rs.1,75,000/- along with interest @ 6% per annum.

I have heard learned counsel for the parties and perused the paper book and relevant documents produced by them.

Learned counsel for the appellants has argued that the deceased was a student of 10+2 and was doing part time job with an advocate. His salary certificate of Rs.3,000/-per month was produced and the advocate deposed to prove the salary certificate. His grievance is that the Tribunal erred in assessing the monthly income of the deceased as Rs.2100/-. He contended that no future prospects have been awarded and the amount awarded under the conventional heads is on the lower side. He further contended that the multiplier applied by the Tribunal is wrong as the deceased was 18 years old.

Learned counsel for the Insurance Company has argued that the salary certificate produced was not substantiated by the advocate, who was not able to establish that the said expenses were being claimed in his income tax return. He further argued that 1/3rd deduction instead of ½ for self expenses had been wrongly made as the deceased was a bachelor.

The contention raised by learned counsel for the appellants with regard to monthly earning of the deceased deserves partial acceptance. The finding of the Tribunal cannot be faulted that it was not proved that the deceased was earning Rs.3,000/- per month. The Tribunal has rightly relied upon the minimum wages prevalent at that time. While making the calculation, the Tribunal has taken the minimum wages as Rs.2100/- per month whereas it was Rs.2343/-. The same is being rounded off to Rs.2350/- for the purpose of calculating the loss of dependency.

The future prospects of 40% are to be awarded as deceased was 18 years of age and in the latest decision of the Hon'ble Apex Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017***, it has been held that where the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects are to be awarded.

The contention with regard to the multiplier deserves acceptance in view of the Hon'ble Apex Court in case ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77*** and ***National Insurance Company Ltd.'s case (supra)***. It has been held that where the deceased was in the age group of 15 to 25, a multiplier of 18 should be applied.

In the latest decision of the Hon'ble Apex Court in ***National Insurance Company Ltd.'s case (supra)*** it has been held that multiplier according to the age of the deceased should be applied.

The contention raised by learned counsel for the appellants with regard to the conventional heads is also squarely covered by the Hon'ble Apex Court in ***National Insurance Company Ltd.'s case (supra).*** The compensation under conventional heads would be awarded later in the order in consonance with the said decision.

The contention of learned counsel for the Insurance Company is that deduction for self expenses had wrongly been made deserves acceptance in view of the decision of Hon'ble Apex Court in case of ***Sarla Verma and others's case (supra).*** In the said decision, it has been held that whereas the deceased is unmarried, one half deduction is to be made for self expenses. Since the quantum of compensation is being resisted the conventional heads compensation will be awarded in consonance with the latest decision of the Hon'ble Apex Court in ***National Insurance Company Ltd.'s case (supra)***.

For the reasons mentioned above, the compensation is recalculated as under :-

Annual income	Rs.28,200/-
Add 40% future prospects	Rs.11,280/-
Total income	Rs.39,480/-
50% deduction for self expenses	Rs.19,740/-
Dependency	Rs.19,740/-
Applying multiplier of 18	Rs.3,55,320/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.3,85,320/-

The award dated 06.12.2005 is modified to the extent that the amount awarded by the Tribunal of Rs.1,75,000/- is enhanced to Rs.3,85,320/-.

The claimants would be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

15.12.2017
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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No