IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1942 of 2011

Date of Decision:08.12.2017

Smt. Suman and others ... Petitioners

Vs.

Puneet and others ... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Navneet Singh, Advocate for the appellants.

Mr. D.K. Prajapati, Advocate for respondent No.3.

AVNEESH JHINGAN J. (Oral)

The present appeal has been filed against award dated 21.12.2010 passed by the Motor Accident claims Tribunal, Sonepat (for short "Tribunal").

On 24.11.2009 in a motor vehicular accident which occurred between motor-cycle bearing registration No. DL-8SAB-6469 and Maruti car bearing registration No. HR-10-L-6267 (for short "the offending vehicle"). The offending vehicle was being driven by respondent No.1 rashly and negligently. Narender aged 38 years lost his life in the accident. FIR No.407 dated 25.11.2009 was registered at Police Station Sadar, Sonepat.

The claim petition under Section 166 of Motor Vehicles Act, 1988 (for short "the Act") was filed by the widow and two minor children of the deceased. The Tribunal awarded a sum of ₹4,51,800/- along with interest @ 7.5% per annum.

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

The parties have not disputed the fact relating to involvement, rash and negligent driving of the offending vehicle, deduction made for self expenses and the income assessed by the Tribunal.

Learned counsel for the appellants argued that at the time of accident, the age of the deceased was 38 years but the Tribunal has not added future prospects while calculating the lost of dependency. He further argued that multiplier of 13 has wrongly been applied. He also argued that amount awarded for last rites and funeral expenses is on lower side and no amount has been awarded for loss of estate.

Learned counsel for the Insurance Company contended that income of the deceased was not established, hence, no future prospects should be awarded. He could not raise serious objection in the light of the recent verdict of the Hon'ble Apex Court in ***National Insurance Company Limited*** v. ***Pranay Sethi and others***; **Special Leave Petition (Civil) No.25590 of 2015; decided on 31.10.2017** with regard to the multiplier to be applied and compensation to be awarded under conventional heads

The contention raised by the learned counsel for the appellants deserves acceptance in view of the law laid down by the Hon'ble Apex Court in ***National Insurance Company Limited's*** case (supra) and ***Smt. Sarla Verma and others*** v. ***Delhi Transport Corporation and another***; **2009 (6) SCC 121.**

The contention of the learned counsel for the appellants that multiplier has, wrongly, been applied, deserves acceptance in view of the decision of Hon'ble the Apex Court in ***Sarla Verma's*** case (supra). In the said case, as per the table given where the age of the deceased is 38 years, multiplier of 15 has to be applied.

The contention raised by the learned counsel for the Insurance Company that no future prospectus should be awarded as income assessed has been assessed on the basis of minimum wages cannot be accepted in view of the latest decision of Hon'ble the Apex Court in the case of ***Hem Raj*** v. ***The Oriental Insurance Company Limited***; **Special Leave Petition (Civil) No.22134 of 2016; decided on 22.11.2017.**

In the above decision, Hon'ble the Apex Court has held that where deceased was below 40 years of age and was employed or having fixed salary, 40% future prospects should be awarded.

In the case of ***Hem Raj*** (supra), Hon'ble the Apex Court has held that even where the income assessed is on the basis of minimum wages prevalent at the time, future prospects has to be awarded.

In the case of ***National Insurance Company Limited*** (supra), Hon'ble the Apex Court has held that ₹70,000/- is to be awarded under conventional heads i.e. ₹15,000/- on account of funeral expenses, ₹15,000/- on account of loss of estate and ₹40,000/- on account of loss of consortium.

In view of the discussion and the case law cited above, compensation is recalculated as under:

Description	***Amount***
Annual Income Assessed	₹50,400/-
Future prospects	₹20,160/-
Total	₹70,560/-
1/3rd deduction for self expenses	₹23,520/-
After deduction total is	₹47,040/-
After applying the multiplier of 15 on the total amount of ₹47040, total is	₹7,05,600/-
After adding funeral expenses of ₹15000/-, Loss of estate ₹15000/- and Loss of Compensation ₹40,000/-, total is	₹7,75,600/-

Accordingly, the award dated 21.12.2010 is modified to the extent that amount of ₹4,51,800/- awarded by the Tribunal is enhanced to

₹7,75,600/-. The appellants would be entitled to the enhanced amount along with interest @ 6% per annum from the date of filing of the claim petition till realization of the amount.

Consequently, appeal is partly allowed in the above said terms.

08.12.2017 **(AVNEESH JHINGAN)**
rajeev **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No