IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4345 of 2010 (O&M)
Date of Decision:- 21.11.2017

Anita Devi & Ors. ....Appellants

Versus

Hari Singh & Anr. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. J.P. Sharma, Advocate, for the appellants.

Mr. Bhavna Grewal, Advocate, for
Mr. S.K. Yadav, Advocate, for respondent No.1- Driver.

AVNEESH JHINGAN, J. (Oral)

The present appeal involves the issue that a security guard getting a fixed salary of ₹4000/- per month lost his life in a motor vehicular accident and the Tribunal while awarding the loss of dependency has not added future prospects.

The present appeal is outcome of a road accident that occurred on 03.07.2009 in which Raj Kumar @ Raju, aged 40 years, lost his life. He was going on his motor-cycle bearing registration No. HR-26-AH-3358. The said motor-cycle was struck by rashly and negligently driven bus bearing registration No. RJ-14-PA-5215. FIR No. 195 dated 03.07.2009 was registered at Police Station City, Narnaul.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of the deceased. The Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') awarded a sum of ₹6,40,000/- along with interest @8% per annum.

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

The facts regarding involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased, salary of the deceased, multiplier applied and deductions made for self-expenses are not in dispute.

Learned counsel for the appellants argued that it was proved that the deceased was working as security guard with SLV Security Services Pvt. Limited, Gurgaon and was getting fixed salary of to Rs.4,000/- per month. He argued that future prospects should have been awarded. He further contended that an amount of ₹39,000/- for loss of consortium and ₹25,000/- has been awarded for funeral expenses, but no amount has been awarded for loss of estate.

Nobody has appeared on behalf of Rajashtan Transport Nigam – Respondent No.2, inspite of service.

Learned counsel for respondent No.1 defended the award and argued that it was not a case of awarding future prospects as the deceased was merely working as security guard and there was no chance of any promotion in course of time.

The contention raised by learned counsel for the appellants deserves acceptance. The issues raised are no longer *res integra* and authoritatively decided by the Hon'ble Apex Court in the latest decision of ***National Insurance Co. Ltd. Vs. Pranay Sethi and Ors. ,*** SLP (Civil) 25590 of 2014, decision dated 31.10.2017 wherein it has been held as under:-

(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.

As per the above decision since the deceased was having a fixed salary and was aged 40 years, 25% future prospects should have been added. Further under all the three conventional heads, amount of ₹70,000/- should have been awarded.

Since the claimants have already been awarded amount of ₹64,000/- under the conventional heads, the same are enhanced to ₹70,000/- (i.e. ₹15,000/- for funeral expenses, ₹15,000/- for loss of estate and ₹40,000/- for loss of consortium)

The loss of dependency is recalculated after adding the future prospectus -

Annual salary	₹48,000/-
25% future prospects	₹12,000/-

Total ₹ 60,000/-

1/4th deduction of self-expenses ₹15,000/- = ₹45,000/-

Applying multiplier of 16

₹ 45000 x 16 = ₹7,20,000/-

The award dated 16.02.2010 is modified to the extent that the amount awarded of ₹6,40,000/- is enhanced to ₹7,90,000/-.

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

In view of the above, the appeal is partly allowed.

November 21, 2017 **(AVNEESH JHINGAN)**
tripti **JUDGE**

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