IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4389 of 2011 (O&M)
Date of Decision:- 16.11.2017

Harjit Kaur & Ors. ....Appellants

Versus

Swaran Singh & Ors. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. M.K. Bhatnagar, Advocate, for the appellants.

Mr. Anupam Singla, Advocate, for respondent Nos. 2 and 3.

AVNEESH JHINGAN, J. (Oral)

The present appeal raises the issue of enhancement of compensation in a death case. On an ill fated day of 13.08.2008, Lakhwinder Singh, aged 29, a constable in a Punjab Police lost his life in a motor vehicular accident. His motor-cycle bearing registration No. PB-03-S-3309 was hit by a rashly and negligently driven bus bearing registration No. PB-11-U-9702 (for short,'the offending vehicle'). He suffered grievious injuries and ultimately lost his life. FIR No. 76, dated 14.08.2008, was registered at Police Station Sangat.

The claim petition was filed by the mother, widow and two minor children of the deceased under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), before the Motor Accident Claims Tribunal, Bathinda, (for short, 'the Tribunal'). The Tribunal vide award dated 26.02.2011 awarded a sum of Rs.12,69,500/- along with interest @8% per annum.

In the present appeal, there is no dispute with regard to involvement of the offending vehicle, rash and negligent driving of the offending vehicle. There is no dispute with regard to age and salary of the deceased.

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

Learned counsel for the appellants argues that the deceased was 29 years of age and the Tribunal wrongly applied the multiplier of 15. He further argues that deceased was survived by for four dependents and deduction of 1/3rd for self-expenses has been wrongly made. He further states that no future prospects have been awarded. He contends that amount awarded under the conventional heads is on the lower side.

Learned counsel for respondent Nos. 2 & 3 defended the award and resisted any enhancement.

The contentions raised by the learned counsel for the appellants deserves acceptance, in view of the latest decision of the Hon'ble Apex Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and Ors., SLP (civil) 25590 of 2014 decided on 31.10.2017.***

> "*(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was 48 between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*
>
> *v) For determination of the multiplicand, the deduction for*

personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(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."

The Tribunal had taken gross-salary as Rs.10,981/-. The same is rounded of to Rs.10,980/-. The loss of dependency is re-calculated as under:-

Monthly salary is Rs. 10,980/-
50% future prospects = Rs. 5490/-
Annual earning 16470 x 12 = Rs. 197640/-
1/4th deduction for self-expenses = Rs. 49410/-
Rs. 1,48,230/- applying multiplier of 17 = Rs. 25,19,910/-

The Tribunal had awarded Rs.2000/- for funeral expenses, Rs.5,000/- for loss of consortium and Rs.2500/- for loss of estate.

In view of the decision of Hon'ble Apex Court in ***National Insurance Company Ltd.*** (Supra), the amount under the conventional Heads are enhanced to Rs.70,000/- i.e. 15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium.

The award dated 26.02.2011 is modified to the extent that the amount awarded of Rs.12,69,500/- is enhanced to Rs.25,89,910/-.

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

The appeal is partly allowed with the above said observations.

November 16, 2017 **(AVNEESH JHINGAN)**
tripti **JUDGE**

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