IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 5921 of 2012 (O&M)
Date of Decision:- 30.11.2017

Smt. Subhani & Ors. .... Appellants

Versus

Sameer Ahmad & Anr. .... Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Ashish Gupta, Advocate, for the appellants.

Mr. Rajesh K. Sharma, Advocate, for respondent No.2.

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 28.07.2012 passed by the Motor Accident Claims Tribunal, Nuh, District Mewat (for short. 'the Tribunal').

The two grievances raised in the present appeal is that no future prospects have been awarded even when it was proved on record that deceased was a teacher in government school on contractual basis and was drawing fixed salary. The second grievance is that only Rs.20,000/- have been awarded towards loss of estate, funeral expenses and loss of consortium.

In the present case there is no dispute with regard to rash and negligent driving of the offending vehicle, age of the deceased, deductions made for self expenses, multiplier applied and salary of the deceased.

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

Learned counsel for the appellants has argued that future prospects should have been awarded by the Tribunal and the amount awarded under the conventional heads is on the lower side.

Learned counsel for the insurance company defends the award and states that the amounts awarded is just & equitable and no further enhancement is required.

The contentions raised by learned counsel for the appellants are squarely covered by the latest decision of Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017***. As per the decision, in case of a person who was on a fixed salary and was between the age of 40 to 50, 25% future prospects should have been awarded. It was further held that amount of Rs.70,000/- should be awarded under conventional heads (i.e. Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium).

Since there is no dispute on the loss of dependency already calculated, the only grievance is that 25% future prospects should have been awarded. The Tribunal had awarded a sum of Rs.21,28,896/-. 25% future prospects comes to Rs.5,32,224/-. The amounts awarded under the conventional heads are enhanced to Rs.70,000/- (i.e.Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium).

The award dated 28.07.2012 is modified to the extent that the amount awarded of Rs.21,48,896/- is enhanced to Rs.27,31,120/-.

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

The appeal is partly allowed in the above said terms.

November 30, 2017 **(AVNEESH JHINGAN)**
tripti **JUDGE**

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