

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1073 of 2013 (O&M)

Date of Decision: 13.12.2017

Smt. Kaushilya Devi and othersAppellants

Versus

Shambhu Dayal Meena and othersRespondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate
for the appellants.
None for respondent No.3.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 3.12.2012 passed by the Motor Accidents Claims Tribunal, Narnaul (for short 'the Tribunal').

Ram Niwas, aged 40 plus was going on foot on 20.1.2011. He was hit by a rashly and negligently driven vehicle bearing registration No.HR-55-J-9030. In the said accident, he suffered grievous injuries which were fatal. FIR No.10 dated 21.1.2011 was registered at Police Station Nangal Chaudhary.

The 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 Tribunal assessed the annual income of the deceased as Rs.66,000/- and made 1/3rd deduction for self expenses. Applying the multiplier of 15, a sum of Rs.6,60,000/- was awarded towards loss of dependency and further amount of Rs.7000/- was awarded for medical expenses, Rs.13,000/- for transportation and last rites expenses and towards loss of consortium alongwith interest at the rate of 6% per annum.

The present appeal has been filed for enhancement of the

compensation.

Insurance Company was being represented by Mr. Vishal Goel, Advocate but today no one is present on behalf of Insurance Company.

Learned counsel for the appellants has contended that the Tribunal while awarding loss of dependency has not awarded future prospects. Her contention is that 1/3rd deduction for self expenses has wrongly been made as the deceased was survived by four dependents. Her grievance is that the amount awarded for funeral expenses and towards loss of consortium is on the lower side and no amount has been awarded for loss of estate.

The contentions raised by learned counsel for the appellants are squarely covered by the decision of Hon'ble the Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017.** As per the above decision 25% future prospects are to be awarded where the deceased was in the age group of 40 to 50 and having a fixed salary or self employed.

The contention of learned counsel regarding self expenses deserves acceptance in view of the law laid down by Hon'ble the Apex Court in **Sarla Verma and others Vs. Delhi Transportation Corporation and another (2009)6 SCC 121** it has been held that where deceased is survived by 4 to 6 dependents, 1/4th deduction should be made for self expenses.

In **Pranay Sethi's case (supra)**, it has been held that an amount of Rs. 70,000/- is to be awarded under the conventional heads i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and

Rs.15,000/- for funeral expenses.

Hon'ble the Apex Court in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)** has held that future prospects has to be awarded even in cases where the income is assessed relying upon the minimum wages prevalent at that time.

The compensation is recalculated as under:

Annual income	Rs.66000/-.
25% future prospects (66,000x25%)	Rs.16,500/-
Total	Rs.82500/-.
1/4 th deduction for self expenses	Rs.20,625/-.
(82,500-20,625)	Rs.61875/-
Applying multiplier of 15	
(61875 x 15)	Rs.9,28,125/-

With regard to conventional heads, an amount of Rs.70,000/- i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses, is awarded.

The award dated 3.12.2012 is modified to the extent that the amount awarded of Rs. 6,80,000/- is enhanced to Rs. 9,98,125/-. The claimants shall be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the above said terms.

13.12.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No