IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4503 of 2013 (O&M)

Date of Decision: 16.11.2017

Amrita Kaur etc. ... Appellants

Versus

Des Raj etc. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.S.K.Singla, Advocate for the appellants

Mr.Sandeep Verma, Advocate for respondent no.3

RAJIV NARAIN RAINA, J. (Oral)

1. This appeal has been filed by the appellants/claimants who are the widow, daughter and son and four sons of deceased Vijay Kumar seeking increase in compensation awarded by the Motor Accident Claims Tribunal, Sangrur vide its award dated 9th April, 2013.

2. The fatal accident occurred on 11th March, 2011 while Vijay Kumar alongwith his family and other relatives were travelling from Sunam to Amritsar in Maruti Car No. PB-44A-7851 to attend a marriage. Vijay Kumar was driving the car and when they reached near Village Aladinpur and were just behind first phirni of Tarn Taran, a white TATA Indica Car bearing Registration No.PB-18L-4224 driven by respondent no.1 came and collided with the Maruti car and sadly Vijay Kumar died in the accident. DDR No.42 dated 11th March, 2011 was recorded at P.S.Sadar Tarn Taran. A claim petition was filed by the appellants. Late Vijay Kumar was a motor

mechanic running a workshop under the name and style of M/s Kamboj Electric Works near Bus Stand, Sunam.

3. The Tribunal took the monthly income of the deceased at ₹ 3,000/- and after making 1/3rd deduction, assessed the monthly contribution of the deceased towards the claimants at ₹ 2000/- and annual dependency at ₹ 24,000 (2,000 x 12= ₹ 24,000). The date of birth of the deceased was 20^{th} January, 1963 and was about 48 years of age. Multiplier of 13 has been applied. The Tribunal granted the total compensation at ₹ 3,12,000/- (₹ 24,000 x 13). The Tribunal further granted ₹ 2,000/- on account of funeral expenses and hence total compensation came out to be ₹ 3,14,000/-. The amount has been awarded with 7.5 % interest per annum from the date of claim petition till realization. Claimants asked for enhancement of compensation in tune with the law.

4. Mr.S.K.Singla, learned counsel for the appellants has produced a tabulated sheet of the proposed enhancement, which figures have been shared with Mr.Sandeep Verma, learned counsel appearing for the Insurance Company. The break-up of the compensation under the conventional heads figuring in the chart is reproduced as under:-

Sr. No.	Heads	Calculations
1.	Income	₹ 3000/- per month
2.	Addition of 30% for Future Prospects	₹ 3900 per month
3.	Total Income	₹ 6900 per month
4.	Deducation of 1/3rd for personal expenses	₹ 2600 per month

5.	Annual dependency	₹ 2600x 12 x 13= = ₹ 4,05,600
6	Loss of consoritum	₹ 40,000
7.	Loss of Love and affection for each child	₹ 1,00,000 i.e. ₹ 50,000 each child
8.	Loss of Estate	₹ 15,000
9.	Funeral Expenses	₹ 15,000
10.	Total Compensation	₹ 5,75,6000
11.	Enhanced compensation	₹ 5,75,600- ₹ 3,14,000= ₹ 2,61,600

5. Having regard to the above chart and after hearing the learned counsel for the parties there can hardly be any doubt that the same has been prepared in tune with the latest declaration of law in National Insurance Company ltd. vs. Pranay Sethi and others, SLP (C) No.25590 of 2014 decided by the Supreme Court on 31st October, 2017. The multiplier of 13 has been applied which is appropriate and accordingly annual dependency has been calculated, including addition of 30% for future prospects which is as per law as the deceased fell in the 30% bracket as per the Supreme Court judgment. The grand total of the compensation which deserves to be awarded in this case is enhanced to ₹5,75,6000/- less the amount of compensation already paid, i.e., ₹ 3,14,000/- and the balance remaining, i.e, ₹ 2,61,600/- represents the compensation enhanced by this Court. It is so ordered.

6. Besides, the Tribunal assessed counsel fee at ₹ 2000/- which is increased more realistically to ₹ 5500/-. The additional amount of ₹ 3500/- will also be due and payable to the claimants without carrying any interest thereon.

7. Accordingly, this appeal is partially allowed and the award is modified to the extent indicated above. The respondent-Insurance Company on whom the liability falls will deposit the enhanced compensation before the MACT, Sangrur/Executing Court within six weeks from the date of receipt of a copy of this order and the enhanced amount will be disbursed to the claimant as per law without delay.

(RAJIV NARAIN RAINA)
JUDGE

16.11.2017
MFK

Whether speaking/reasoned *Yes*

Whether Reportable *No*