

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

664

FAO No.3553 of 2015
Decided on : 01.11.2017

Sarabjit Kaur and others

... Appellants

Versus

Ashok Kumar and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.H.S.Thiara, Advocate
for the appellants.

Mr.Vinod Gupta, Advocate
for the respondent-Insurance company.

Avneesh Jhingan , J. (Oral)

The present appeal has been filed against the award dated 6.11.2013 by Motor Accidents Claims Tribunal, Hoshiarpur (for short 'the Tribunal').

2 On the fateful day, Omkar Singh lost his life in motor vehicular accident i.e. 30.09.2012. He was going on his motorcycle bearing registration No.PB-07AC-1544 and struck by rashly and negligently driven Alto car bearing registration No.PB-07AB-8008. FIR No.77 dated 1.10.2012 was registered at Police Station Mahilpur, District Hoshiarpur.

3. The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short the Act) was filed.

4 The Tribunal awarded a sum of Rs.38,74,000/- along with interest at the rate of 6% per annum.

5. The present appeal has been filed for enhancement of the

compensation.

6. Facts of the case have not been disputed by the parties.
7. Learned counsel for the appellants argues that the deceased was 54 years of age at the time of accident and was working in Punjab State Electricity Board as Foreman. His salary was taken as Rs.43,738. 1/3rd deduction on account of personal expenses was made and multiplier of 11 was applied. There is no dispute on these issues. The only issue raised is that future prospects have not been added while calculating the loss of dependency. His further contention is that except Rs.25,000/- towards funeral expenses, no other amount has been awarded under other conventional heads.
8. Learned counsel for the Insurance company resisted the enhancement and argued that since the deceased was of 54 years and the respondents would be entitled to pension, therefore, no future prospects should be added.
9. I have heard learned counsel for the parties and perused the papers-book.
10. The contention raised by learned counsel for the appellants deserves acceptance in view of the latest decision of Hon'ble Supreme Court given by Bench of five Hon'ble Judges' passed in a bunch of petitions titled as National Insurance Company Limited Versus Pranay Sethi and Ors SLP (C) No.25590 of 2014 decided on 31.10.2017. It has been held:-

“60. The controversy does not end here. The question still remains whether there should be no addition where the age of

the deceased is more than 50 years. Sarla Verma thinks it appropriate not to add any amount and the same has been approved in Reshma Kumari. Judicial notice can be taken of the fact that salary does not remain the same. When a person is in a permanent job, there is always an enhancement due to one reason or the other. To lay down as a thumb rule that there will be no addition after 50 years will be an unacceptable concept. We are disposed to think, there should be an addition of 15% if the deceased is between the age of 50 to 60 years and there should be no addition thereafter. Similarly, in case of self employed or person on fixed salary, the addition should be 10% 47 between the age of 50 to 60 years. The aforesaid yardstick has been fixed so that there can be consistency in the approach by the tribunals and the courts.”

10 The Hon'ble Apex Court after considering the decision of Sarla Verma and others v. Delhi Transport Corporation and another (2009) 6 SCC 121 and Reshma Kumari and others v. Madan Mohan and another, 2013 (9) SCC 65 held that in case like the present one where the deceased is between the age 50-60, addition of 15% has to be made for future prospects.

11 Keeping in view of the said decision, the loss of dependency is enhanced by 15% of Rs.38,48,988/- comes to Rs.5,77,349/-.

12 The second contention raised by learned counsel for the appellants has also been authoritatively settled in National Insurance Company's case (supra) and their Lordships have held that under the conventional heads, a sum of Rs.70,000/- in total is to be awarded i.e. Rs.15,000 for loss of estate, Rs.40,000/- for loss of consortium and, Rs.15,000/- for loss of funeral expenses.

The amount awarded for funeral of Rs.25000/- is enhanced to

Rs.70,000/- as being under all the three conventional heads.

14. The award dated 6.11.2003 is modified to the extent that the amount of Rs.38,74,000/- awarded by the tribunal is enhanced by **Rs.6,22,349/-**.

15. The claimants shall be entitled to enhanced amount along with interest at the rate of 6% from the date of filing of the claim petition till its realization.

Petition stands partly allowed with the above modification.

[Avneesh Jhingan]
Judge

01.11.2017
sd

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