212 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

FAO-4232-2015 (O&M)
Date of decision: 06.12.2017

Janki Devi and another .... Appellants

Versus

Surender Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Saurabh Dalal, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The present appeal has been filed against the award dated 06.10.2012 passed by Motor Accidents Claims Tribunal, Rohtak (hereinafter referred to as the 'Tribunal').

In a motor vehicular accident that occurred on 28.07.2009, Dilbagh Singh, aged 25 years, lost his life. The accident involved motorcycle bearing registration No.HR-99-DR/4035 and Tata vehicle bearing registration No.HR-39A/7486 (for short, 'the offending vehicle'). As a result of the accident, Dilbagh Singh suffered multiple and serious injuries and lost his life. FIR No.138 dated 28.07.2009 was registered at Police Station Lakhan Majra.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by legal heirs of deceased.

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The Tribunal awarded a sum of Rs.4,47,000/- along with interest @ 6% per annum. The said amount awarded included Rs.10,000/- for transportation and funeral expenses and Rs.5,000/- for loss of consortium.

The present appeal has been filed by the claimants for enhancement of compensation.

I have heard the learned counsel for the parties and perused the paperbook.

The facts have not been disputed by either of the parties i.e. involvement of the offending vehicle, rash and negligent driving of the offending vehicle and age of the deceased.

Learned counsel for the appellants has argued that the Tribunal while calculating the loss of dependency has not added the future prospects. He further argued that the Tribunal has taken the monthly income of the deceased as Rs.3,000/- whereas even the minimum wages prevalent at that time were higher. He further argued that the multiplier of 16 has been applied whereas in view of the fact that the deceased was aged 25 years, multiplier of 18 should have been applied. His grievance is that the amount of Rs.15,000/-awarded under the conventional heads is on the lower side and no amount is awarded for loss of estate.

Learned counsel for the Insurance Company has argued that there was no established income and it was only assessed income which was considered by the Tribunal. In such circumstances, no future prospects should be awarded. He further contended that deductions for self expenses should have been made 1/3rd instead of 1/4th as the deceased was survived

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by three dependents.

Learned counsel for the appellants has no objection if the deduction of 1/3rd is made for self expenses.

The contention raised by learned counsel for the appellants with regard to the monthly earning of the deceased is concerned deserves acceptance. At the time of the accident, the minimum wages prevalent in the State of Haryana is Rs.3,914/-. The minimum wages is safest yardstick, which can be relied upon for assessing the monthly earning of the deceased. The figure of Rs.3914/- is rounded up to Rs.3900/-.

The contention raised by learned counsel for the Insurance Company that no future prospects should be awarded as the income is only assessed income cannot be accepted in view of the latest decision of the Hon'ble Apex Court in ***Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017.***

In the said decision, it has been held that even where the income has been assessed relying upon the minimum wages, future prospects have to be added. Since the deceased was 25 years of age, 40% future prospects has to be added while computing the loss of dependency.

The contention of learned counsel for the appellants vis-a-vis the amount awarded under conventional heads also deserves acceptance.

As per the decision of the Hon'ble Apex Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017*** Rs.70,000/- has to be awarded under the conventional heads i.e Rs.15,000/- for loss of estate, Rs.15,000/-

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for funeral expenses and Rs.40,000/- for loss of consortium.

In the present case, the amounts awarded under the conventional heads are enhanced in consonance with the decision of the Hon'ble Apex Court. The compensation is recalculated as under :-

Monthly income	Rs.3900/-
Add 40% future prospects	Rs.1560/-
Total income	Rs.3900+1560=Rs.5460/-
Annual income	Rs.5460x12=Rs.65,520/-
1/3rd deduction for self expenses	Rs.21,840/-
Dependency	Rs.43,680/-
Applying multiplier of 18	Rs.7,86,240/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.8,56,240/-

The award dated 06.10.2012 is modified to the extent that the amount awarded by the Tribunal of Rs.4,47,000/- is enhanced to Rs.8,56,240/-.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

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1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : Yes

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