IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

498

FAO No.4366 of 2015
Decided on : 14.11.2017

Satish Kumar and another

... Appellants

Versus

Parveen Kumar and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.S.S.Virk, Advocate for the appellants.
Mr.Harsh Aggarwal, Advocate for respondent No.3.

Avneesh Jhingan, J. (Oral)

The present appeal is for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panipat (for short, 'the Tribunal').

The proceedings are result of the motor vehicular accident that occurred on 10.06.2013 in which Vishal aged 25 years lost his life.

He was driving a motorcycle bearing registration No.HR-06Z-6059. He was hit by canter bearing registration No.HR-61A-2266. As a result of the accident, he suffered injuries and ultimately, succumbed to the injuries. FIR No.630 dated 11.6.2013 was registered at Police Station City, Panipat.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'Act') was filed by the parents of the deceased and the Tribunal awarded a sum of Rs.10,41,277/- along with interest at the rate of 9% per annum.

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

The issue raised in the present appeal is that multiplier of 13 was wrongly applied. The amount awarded under the conventional heads is also on the lower side and no future prospects have been awarded.

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

Learned counsel for the appellants argues that the income of the deceased had been established income as per Income Tax Report which was accepted by the Tribunal. He contends that in such circumstances, future prospects should have been awarded. He further contends that the deceased was 25 years of age at the time of accident and a multiplier of 18 should have been applied. His grievance is that the amount of Rs.10,000/- has been awarded for funeral expenses which is on the lower side and no amount has been awarded for loss of estate.

Learned counsel for the Insurance company resisted the enhancement.

The issues raised by the learned counsel for the appellants have substance. The said issues deserve acceptance in view of the latest decision of the Apex Court in case ***National Insurance Company Limited*** vs.***Pranay Sethi and Ors***. (Special Leave Petition (Civil) No. 25590 of 2014) decided on 31.10.2017. It has been held as under:-

> "(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

(vi) The selection of multiplier shall be as indicated in the Table in *Sarla Verma* read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

In view of the decision referred above, the amount awarded under the conventional heads is enhanced from Rs.10,000/- to Rs.30,000/- i.e. Rs.15,000/- for funeral expenses and Rs.15000/- for loss of estate.

The loss of dependency is recalculated as under:-

Sr.No.	***Head***	***Amount awarded by this Court***
1	Annual Income as per ITR,	Rs.1,58,660/-
2	Add 40% future prospects Rs.63,464	Rs.2,22,124/-
3	Less 50% for self expenses	Rs.1,11,062/-
4	Loss of dependency by applying multiplier of 18 Rs.1,11,062 X 18	Rs.19,99,116/-

The award dated 10.2.2015 is modified to the extent that the amount of Rs.10,41,277/-awarded by the Tribunal is enhanced to Rs.20,29,116/-.

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

The appeal is partly allowed in the abovesaid terms.

14.11.2017 **[Avneesh Jhingan]**
sd **Judge**

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