IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4939 of 2015
Date of Decision: 13.12.2017

Bala Devi and others ... Appellants

Versus

Raj Kumar @ Dimple and another ... Respondents

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

Present: Mr. Rajesh Hooda, Advocate,
for the appellants.

Ms. Rubi Patil, Advocate,
for Mr. Chanderhas Yadav, Advocate,
for respondent No.1.

Mr. Puneet Jain, Advocate,
for respondent No.2.

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RAJIV NARAIN RAINA, J.(Oral)

1. Liability is not disputed by the Insurance Company nor the death in the Motor Accident. The age of the deceased was 37 years at the time of death in 2011, a fact which is not in dispute. Age of deceased attracts a multiplier of 15. The income has been accepted by the Tribunal as ₹15,000/- per month. The deceased was the owner of the offending truck and earned a living for his family out of trucking business. The income has been accepted by the Tribunal as ₹15,000/- per month which is upheld as it requires no interference.

2. Future prospects as per Special Leave Petition (Civil) No.25590

of 2014, *National Insurance Company Limited v. Pranay Sethi and others* are to be assessed @40% given the age (below 40 years) specified for the self-employed. The Tribunal has made a 1/4th deduction from the income and the dependency has been calculated by adding ₹6000/- to ₹15,000/- to make it ₹21,000/-. From ₹21,000/- ₹5250/- has been subtracted (1/4th) to make a total of ₹15750/- per annum. Accordingly, compensation deserves to be granted including for future prospects @ ₹15750x12x15 = ₹28,35,000/-.

3. As per *Pranay Sethi* the claimants would be entitled to loss of consortium @ ₹40,000/-, loss of estate ₹15,000/- and ₹15,000/- for funeral expenses making a grand total of ₹29,05,000/- (Rs. Twenty Nine lakh and Five Thousand) as compensation.

4. The Tribunal has awarded 6% interest on the compensation from the date of claim application to the date of actual payment.

5. In the view of this Court, 6% is on the much lower side and deserves to be granted @ 9% which was prevalent at the time of accident in 2011 on long term fixed deposits. Even in Civil Appeal No.19544 of 2017, *Smt. Durga Devi and others v. Union of India and another* decided on November 15, 2017 after noticing the judgment in *Pranay Sethi* the interest has been granted by the Supreme Court @9% per annum and in case of default of payment, interest would run at 12% per annum if not paid within 60 days.

6. As a result of the above discussion and going by the calculation on the conventional heads, this appeal is partly allowed. The award of the Motor Accident Claims Tribunal, Jhajjar dated January 21, 2015 is modified. In the light of this order, the compensation in the sum of

₹29,05,000/- be calculated with interest @9% from the date of claim application till realization and the same be deposited in the Motor Accident Claims Tribunal/Executing Court within **60 days** from the date of receipt of certified copy of the order. The amount, thereafter, be disbursed to the claimants without delay and without putting any conditions thereon since the money belongs to the claimants. In addition to the aforesaid amount, the Insurance Company would also be liable to pay ₹20,000/- towards litigation expenses and costs which must have been spent in the trial Court and this Court. The same be also paid.

7. It is clarified on the constructive suggestion of Mr. Puneet Jain for the insurer that interest at the rate 9%, if awarded, should accrue only on the enhanced compensation but not on the amount awarded by the Tribunal and paid, as such a measure would be justified and burdensome. However, in case the amount of enhanced compensation is not deposited within the time allowed above, it shall earn 12% interest on the enhanced compensation from period fixed supra till payment as per dispensation of the Supreme Court in *Smt. Durga Devi* awarding 9% interest.

(RAJIV NARAIN RAINA)
JUDGE

13.12.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*