IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 18.12.2017

(i) FAO No. 54 of 2015 (O&M)

United India Insurance Company Ltd.

.......Appellant.

Versus

Gurdeep Kaur and others

......Respondents

(ii) FAO No. 9205 of 2014 (O&M)

Gurdeep Kaur and others

.......Appellants.

Versus

Rajinder Singh and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr.S.S. Sidhu, Advocate
for the appellant in FAO No. 54 of 2015 and
for respondent No.3 in FAO No. 9205 of 2014.

Mr. Jaideep Verma, Advocate
for respondents No. 1 to 3 in FAO No. 54 of 2015 and
for appellants in FAO No. 9205 of 2014.

Ms. Jigyasa Tanwar, Advocate
for respondent No. 7 and 8 in FAO No. 54 of 2015 and
for respondents No. 1 and 2 in FAO No. 9205 of 2014.

AVNEESH JHINGAN, J.

The present appeals have been filed against the award dated 15.9.2014 passed by Motor Accidents Claims Tribunal, Rupnagar (for short 'the Tribunal').

On 11.8.2013, Jaspal Singh, aged 28 years, was going on his motor cycle bearing registration No. PB-43-C-5392 when a rashly and negligently driven Bolero bearing registration No.PB-10-CZ-1137, hit his motor cycle. As a result of said accident, Jaspal Singh, died on the spot. FIR No. 123, dated 11.8.2013 was registered at Police Station Sadar, Ludhiana. In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') by the legal heirs of the deceased, the Tribunal awarded a sum of Rs.13,02,250/- alongwith interest at the rate of 9% per annum.

Both Insurance Company and the claimants have filed their present appeals being aggrieved of quantum of compensation.

Learned counsel for the Insurance Company argued that the Tribunal has wrongly awarded 50% future prospects. His further contention is that since there was no established income, no future prospects should have been awarded.

Learned counsel for the claimants vehemently resisted the contention of learned counsel for the Insurance Company. He argued that in view of the decision of Hon'ble the Apex Court in ***National Insurance Company Limited Versus Pranay Sethi and others*** ***Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017***, 40% future prospects should have been awarded.

Learned counsel for the claimants while arguing his appeal argued that the Tribunal erred in assessing the income of the deceased as Rs.5500/- per month. His argument is that minimum wages prevalent at that time was Rs.6247/-. His further grievance is that future prospects should be awarded at the rate of 40%. His next grievance is that no amount has been awarded for loss of estate and the amount awarded under conventional heads is on the lower side.

Learned counsel for the Insurance Company while opposing the appeal filed by the claimants argued that since the counsel for appellants could not raise any serious objection in accepting the minimum wages as the earning of the deceased, he opposed enhancement on conventional heads.

The facts have not been disputed by either of the parties i.e. involvement of the offending vehicle in the accident, rash and negligent driving of the offending vehicle, age of the deceased being 28 years, 1/4th deduction for self expenses and multiplier applied.

The contention raised by learned counsel for the claimants with regard to acceping the minimum wages as the earning of the deceased, deserves acceptance. It is the safest yardstick in case where the claimants have failed to establish the income. At the relevant time, the minimum wages in State of Punjab were 6240/- and the same is rounded off to Rs.6250/-.

The issue with regard to future prospects has been raised by both the sides. The said issue is no longer res-integra. Hon'ble the Apex Court in **Pranay Sethi's case (supra)** has held that where the person is self employed or having a fixed salary and below 40 years of age, 40% future prospects has to be awarded.

The contention raised by learned counsel for the Insurance Company that since in the present case, there was no established income, future prospects should not be awarded, deserves rejection in view of decision of Hon'ble the Apex Court in ***Hem Raj Versus Oriental***

<u>Insurance Company Ltd</u>. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017. Hon'ble the Apex Court has held that even where the claimants failed to establish the income and the income was assessed on the basis of minimum wages in those cases also future prospects has to be awarded.

The contention raised by learned counsel for the claimants for enhancement of conventional heads is accepted and the conventional heads are awarded in consonance with the decision of Hon'ble the Apex Court in Pranay Sethi's case (supra) to Rs.70,000/- i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses respectively.

For the reasons mentioned above and in view of the case law cited above, the compensation is recalculated as under:

Annual income	Rs.75000/-
40% future prospects	Rs.30,000/-
Total	Rs.1,05,000/-
1/4th deduction for self expenses	Rs. 26,250/-
	Rs.78,750/-
multiplier of 17	Rs.13,38,750/-
conventional heads	Rs.70,000/-

The award dated 15.9.2014 is modified to the extent that the amount awarded of Rs.13,02,250/- is enhanced to Rs.14,08,750/-.

The claimants shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount. There was stay by this Court on payment of compensation beyond Rs. 10 lakh, the balance amount awarded by the Tribunal would be paid along with interest as awarded by the Tribunal.

The appeals are partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

18.12.2017
reema

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No