IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5065 of 2016 (O&M)
Date of Decision:- 05.12.2017

Deepak @ Deepak Kumar & Anr. ....Appellants

Versus

Budh Ram & Ors. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Rishab Lohan, Advocate, for
Mr. R.N. Lohan, Advocate, for the appellants.

Mr. Vishal Aggarwal, Advocate,
for respondent No.3 – Insurance Co.

AVNEESH JHINGAN, J. (Oral)

The present appeal involves the issue of awarding compensation under Section 166 of Motor Vehicles Act, 1988 (for short, 'the Act') for the death of a house-wife.

In a motor vehicular accident that occurred on 05.09.2015, Smt. Manisha, aged 23 years, lost her life. She was a pillion rider on a motor-cycle bearing registration No. DL-4SBX-4759. The said motor-cycle was struck by a rashly and negligently driven car bearing registration No. HR-76A-9150. As a result of the accident she suffered multiple injuries and during the treatment she lost her life. FIR No. 106 was registered at Police Station Rohrai.

A claim petition was filed under Section 166 of the Act by the husband and minor child of the deceased. The Motor Accident Claims Tribunal, Rewari (for short,'the Tribunal') vide its award dated 05.05.2016 awarded a sum of Rs.4,09,000/- along with interest @9% per annum.

The present appeal has been filed for enhancement of compensation.

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

Learned counsel for the appellants argued that the deceased was a house-wife and the Tribunal erred in assessing her notional annual earning as Rs.36,000/- only. His grievance is that even out of this amount Rs.18,000/- was deducted towards personal expenses. He further argued that it was claimed that she was selling milk and doing the agricultural work. He relies upon the judgment of Hon'ble Apex Court in ***Laxmidhar Nayak & Ors. Vs. Jugal Kishore Behera & Ors***.,Civil Appeal No. 19856 of 2017, decided on 28.11.2017.

Learned counsel for the insurance company argued that it was not proved on record that the deceased was doing agricultural work. He further contended that amounts awarded under the various heads should be restricted as per the latest decision of Hon'ble Apex Court in ***National Insurance Co. Ltd. Vs. Parney Sethi, SLP (Civil) 25590 of 2014,*** decided on 31.10.2017.

The contention raised by learned counsel for the appellants deserves acceptance. In case of the notional income being assessed of the house-wife there should not be any deduction for self-expenses. Moreover in a similar case the Hon'ble Apex Court has assessed the monthly earning of a house-wife, who was contributing a bit in the agricultural work also as Rs.4500/- per month. In the facts of the present case the loss of dependency is being calculated by taking the monthly earning as Rs.4500/- per month. The deceased was 23 years of age and multiplier of 18 is to be applied. The compensation is to be calculated as under:-

Rs.4500 x 12 x 18 = Rs.9,72,000/-

The Hon'ble Apex Court in ***National Insurance Co. Ltd.*** (Supra) has held that Rs.70,000/- is to be awarded under the conventional heads (i.e. Rs.15,000/- for loss of funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium). The said amount of Rs.70,000/- is awarded under the conventional heads.

The award dated 05.05.2016 is modified to the extent that the amount of Rs.4,09,000/- awarded by the Tribunal is enhanced to Rs.10,42,000/-.

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

The appeal is partly allowed in the aforesaid terms.

December 05, 2017 **(AVNEESH JHINGAN)**
tripti **JUDGE**

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