IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9166-2014 (O&M)
Date of decision: 24.11.2017

Vanita Bhatnagar and others .... Appellants

Versus

Sewa Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Vikram Bali, Advocate
for the appellants.

Mr. Subhash Goyal, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The present appeal has been filed by the legal heirs of Narinder Sarup Bhatnagar for enhancement of compensation against the award dated 01.05.2012 passed by Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal').

On 22.09.2008, Narinder Sarup Bhatnagar, aged 55 years, lost his life in a motor vehicular accident involving a car bearing registration No.HP-19A-5400 and a truck bearing registration No. PB-07T-6195 (for short, 'the offending vehicle'). DDR No.22 dated 23.08.2009 was registered at Police Station Sadar Pathankot.

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

The Tribunal awarded a sum of Rs.13,37,063/- along with interest @ 7.5% per annum.

Aggrieved of the said award, the present appeal has been filed for enhancement of compensation awarded by the Tribunal.

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

The parties have not disputed the facts with regard to the involvement and rash and negligent driving of the offending vehicle. The income of the deceased, age of the deceased, multiplier applied and 1/3rd deduction for self expenses are also not disputed.

The only issue raised in the present appeal is for awarding the future prospects and enhancement of amount awarded under the conventional heads.

Learned counsel for the appellants has argued that it was proved on record that the deceased was self employed person. In such circumstances and keeping in view the age of the deceased, future prospects ought to have been awarded. His further grievance is that Rs.20,000/- awarded for conventional heads is on the lower side.

On the other hand, learned counsel for respondent No.3 defended the award and resisted enhancement but could not raise any serious objection in view of the latest judgment 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***.

The issue raised by learned counsel for the appellants is no longer res integra. The same has been authoritatively decided by latest decision of Hon'ble the Apex Court in ***National Insurance Company Ltd.'s case (supra).*** The relevant part whereof reads 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.*
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> *(v) (vi) (vii) x x x x x*
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> *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.*

Keeping in view the above said decision, since the deceased was 55 years of age, 10% amount for future prospects are awarded and the amount under the conventional heads is enhanced from Rs.20,000/- to

Rs.70,000/- i.e. 15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium.

The loss of dependency is recalculated as under :-

Annual income	*Rs.1,79,600/-*
Add 10% prospective increase	Rs.17,960/-
Total income	Rs.1,97,560/-
Deducting 1/3rd personal expenses	Rs.65,853/-
Dependency	Rs.1,31,707/-
Applying multiplier of 11, compensation worked out	Rs.14,48,777/-
Conventional heads	Rs.70,000/-
Total	Rs.15,18,777/-

The award dated 01.05.2012 is modified to the extent that the amount awarded by the Tribunal of Rs.13,37,063/- is enhanced to Rs.15,18,777/-.

The claimants shall 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

24.11.2017
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1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : Yes