IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

497

FAO-9245 of 2014
Decided on : 09.10.2017

Sudesh Rani and others

... Appellants

Versus

Saurav and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Chandan Deep Singh, Advocate
for the appellant.
Mr.Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan , J. (Oral)

Present appeal has been filed against award dated 23.8.2014 passed by the Motor Accidents Claims Tribunal, Ludhiana (for short the 'Tribunal').

2. On 27.10.2011, Pal Singh aged 51 years was going on his motor cycle bearing registration No.PB-10-BW-094. He was struck by a car bearing registration No.PB-10-BE-2985. The accident occurred on G.T. Road between Ludhiana and Jalandhar. As a result of the accident, Pal Singh suffered grievous injuries including head injury and he remained hospitalized till his death i.e. 23.1.2012. FIR No.210 dated 5.11.2011 was registered at Police Station Salem Tabri, Ludhiana.

3. The widow of the deceased and three major children filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act').

4. The Tribunal awarded a sum of Rs.12,29,484/- along with interest at the rate of 6% per annum.

5. Aggrieved of the said award, the claimants have filed the present appeal for enhancement.

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

7. There is no dispute by either of the party with regard to facts of the case.

8. Learned counsel for the appellants has argued that before the Tribunal, Income Tax Returns of the deceased for assessment year of 2007-08 and 2010-2011 were exhibited as Ex.C-54 to 57. As per returns, the gross income of the deceased as under:-

Assessment year	Gross income
2007-08	Rs.68,868/-
2008-09	Rs.1,09,150/-
2009-10	Rs.1,43,800/-
2010-11	Rs.1,43,800/-

9. He further contended that the salary income was also proved by document, Exhibit C-2. His grievance is that for no reason, the Tribunal has taken his monthly earning Rs.10500/- which is on the lower side. He has argued that amount awarded for loss of love and affection is on the lower side.

10. Learned counsel for respondent No.3 resisted any enhancement and argued that deceased was 55 years of age at the time of accident. Various conventional heads have been taken care of by the Tribunal while awarding compensation and hence no enhancement is called for. Further he contended that children are major, therefore, no amount should be awarded for loss of love and affection.

11. From the perusal of the Income Tax Returns for the

assessment year 2009-10 and 2010-2011, it is evident that the deceased was having gross income of Rs.1,43,800/- and after availing the statutory deduction, no income tax was payable. In such circumstances, the Tribunal should have taken the returned income which comes to Rs.11,993. Same is taken as Rs.11900/- The most reliable evidence for assessing the earning of the deceased was the income tax return.

12 The loss of dependency is re-calculated by taking his monthly income is Rs.11900/-. There is no dispute with regard to deduction of self expenses and multiplier applied by the tribunal. The amount of compensation is recalculated as: Rs.11900 X 11 X 12= Rs.15,70,800/- minus 1/3rd deduction/self expenses Rs.5,23,600/-= Rs.10,47,200/-.

13. The contention of the learned counsel with regard to enhancment loss of love and affection deserves acceptance in view of the fact that the deceased was survived by three major children. The amount awarded by the Tribunal is on the lower side.

14. This Court in ***Smt. Gurdev Kaur and others Versus Jharmal Singh and another,*** 2017 (3) The Punjab Law Reporter 9, has held as under:

> "........Appellants-claimant No.2 to 5 who are the major sons and daughters of the deceased also cannot be deprived of the compensation on account of loss of love and affection simply on the ground that they are major. It is a fact of common knowledge that in our society father enjoys the unique position. Even the major children have lot of love and respect for their father. They also seek guidance and advice of their father for the important matters in their life and family. Thus, appellants-claimants No. 2 to 5 shall certainly be entitled to the

compensation on account of loss of love and guidance of their father to the extent of ₹ 2,00,000/-.........”

15. This Court in ***Munshi Ram and another Versus Balkar Singh and others***, 2016 (2) PLR 526, has held as under:

“4. As regards the quantum in FAO 598 of 2014, the deceased was 51 years of age and a housewife. The claimants were the husband and major son and major daughter. The Tribunal took the value of her services at Rs.2500/-. The counsel argues that there must be prospects of increase. Taking the value of services at Rs.4500/- and allowing for a multiplier of 11 suitable to the age of deceased, I will provide for the lakh of rupees for loss of consortium to the husband and make a further provision of Rs.25000/- to each major son and daughter for loss of love and affection.”

16. In view of the facts of the case and the law enunciated in the above decisions, amount awarded for loss of love and affection is enhanced from Rs.50,000/- to 1,00,000 (one lakh).

17. The award dated 23.8.2014 is modified to the extent that amount awarded by the Tribunal of Rs.12,29,484/- is enhanced to Rs.14,02,684/-. The claimants shall be entitled to enhanced amount with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

21 The appeal, is accordingly, partly allowed.

[Avneesh Jhingan]
Judge

09.10.2017
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No