IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9251-2014 (O&M)
Date of decision: 15.12.2017

Bala Devi and others .... Appellants

Versus

Manoj Kumar and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Madhulika, Advocate for
Mr.S.N.Yadav, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The present appeal has been filed against the award dated 02.05.2014 passed by Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal').

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of deceased Chailu Ram.

Chailu Ram, aged 32 years, lost his life in a motor vehicular accident that occurred on 22.03.2013. He was driving a motorcycle bearing registration No.HR-36S-8451. The said motorcycle was hit by a rashly and negligently driven motorcycle bearing registration No.HR-36S-3455 (for short, 'the offending vehicle"). As a result of the accident, he lost his life. FIR No.96 dated 23.03.2013 was registered at Police Station Dharuhera.

In the claim petition filed under the Act, the Tribunal awarded a sum of Rs.10,97,620/- along with interest @ 6% per annum. The compensation awarded included Rs.5,000/- for loss of estate, Rs.25,000/- for funeral expenses and Rs.1,00,000/- for loss of consortium.

I have heard the arguments raised by learned counsel for the parties and perused the paperbook and record.

Learned counsel for the appellants has not disputed the loss of dependency calculated by the Tribunal. Her grievance is that no future prospects have been awarded.

Learned counsel for the Insurance Company defended the award and argued that excess amount has been awarded under the conventional heads. There is no need for awarding future prospects as the excess amount would be virtually equivalent to the future prospects.

The contention raised by learned counsel for the appellants deserves acceptance in view of the latest verdict 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*** and in ***Hem Raj Vs. Oriental Insurance Company Ltd, in Civil Appal No. 19603 of 2017, decided on 22.11.2017.***

As per the above decisions, where the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects are to be awarded. It has been held that even where the income is assessed on the basis of minimum wages prevalent at the time of accident even in such cases future prospects have to be added.

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

In the present case, the quantum of compensation is being recalculated the amounts awarded under the conventional heads would be made in consonance with the decision of the Hon'ble Apex Court in ***<u>National Insurance Company Ltd.'s case (supra)</u>***.

Since there is no dispute on the loss of dependency calculated by the Tribunal of Rs.8,64,000/-, 40% of the said amount is awarded for future prospects i.e. Rs.3,45,600/-. The compensation under the conventional heads of Rs.1,35,000/- is reduced to Rs.70,000/-.

The award dated 02.05.2014 is modified to the extent that the amount awarded by the Tribunal of Rs.10,97,620/- is enhanced by Rs.2,80,600/-.

The claimants would 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

15.12.2017
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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No