IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 9380 of 2014 (O&M)
Date of decision: 21.12.2017.

Naveen and another

...Appellants

versus

Pardeep and others

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present : Mr. Sunny Bhardwaj, Advocate
for the appellants.

Mr. Vipul Sharma, Advocate
for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

1. The present appeal has been preferred against the award dated 17.07.2012 passed by the learned Motor Accident Claims Tribunal, Bhiwani praying for its modification and enhancement of the compensation awarded.

2. The first shortcoming is that the Tribunal has not awarded compensation for future prospects. Deepak, the deceased was aged 26 years at the time of road accident. The claimants are the widow and the mother of late Deepak. The monthly income has been assessed at ₹5,033/- as skilled labour. The had claimants pleaded that Deepak was a Medical Representative working with Apollo Health Services Bhiwani but they were unable to produce any documentary evidence regarding employment and salary and, therefore, the Tribunal assessed the income

as per the notifications under the Minimum Wages Act applicable in the year 2011 when the fatal accident snuffed out the life of Deepak.

3. The multiplier of 17 has been rightly applied and since Deepak (deceased) was below 40 years, future prospects will have to be calculated as for the self-employed below the age of 40 years which is 40%. The dependency would be 2/3rd of the income and the deduction from income will be 1/3rd which comes to ₹4,697/- (₹ 5,033 +40% - 1/3rd = ₹ 4,697/-). The Tribunal has awarded ₹10,000/- for loss of estate, ₹10,000/- towards funeral expenses and only ₹12,000/- for loss of consortium i.e. ₹32,000/-. This will have to be increased to ₹70,000/- i.e. (₹15,000+ ₹15,000+ ₹ 40,000/-) in view of the National Insurance Co. Ltd. Vs. Pranay Sethi and others, 2017 (4) PLR 693. The Tribunal has awarded interest @ 6% per annum from the date of the institution of the claim petition till realization which is on the lower side and deserves to be enhanced to 7.5%. However, interest will not be payable for the period of 684 days delay in filing the appeal.

4. In view of the above, the appeal is partially allowed. The impugned award is modified; compensation is enhanced to ₹10,28, 188/- (₹10,28,188 – ₹7,16, 624/- (already paid) = ₹3,11,564.)

5. The outstanding amount be calculated by deducting 684 days of delay for the interest part and the amount arrived at be deposited before the MACT/Executing Court within six weeks from the date of the receipt of the certified copy of the order.

6. Learned Tribunal would disburse the outstanding amount as per this order to the claimants immediately and without any riders after due verification of the identity. The amount is ordered to be deposited directly in a bank account supplied by the claimants. Before doing so, the Tribunal will apportion the compensation between the widow and mother of the deceased Deepak after hearing them and in its wisdom to make an equitable, fair and just order of division keeping in view the best interest of both parties and their own financial circumstances.

(RAJIV NARAIN RAINA)
JUDGE

21.12.2017
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Whether speaking/reasoned : Yes
Whether reportable : No