IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 987 of 2016(O&M)
Date of decision November 21, 2017

Rajwinder Kaur and others

.... Appellants

Versus

Vaishnav Mohan Lal and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R. C. Gupta, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for respondent No.3.

****

AVNEESH JHINGAN, J (ORAL)

The present appeal has been filed against the award dated 4.8.2015 passed by the Motor Accident Claims Tribunal, Rupnagar (for short 'The Tribunal').

This appeal raises an issue of enhancement of compensation on the ground that no future prospects have been added to the income assessed by the Tribunal.

On 28.3.2014 Rajinder Singh aged 54 years lost his life in a motor vehicular accident involving truck bearing registration No. HR-68-6871 and a truck/dumper bearing registration No. RJ-09-GA-7168. As a result of the accident Rajinder Singh suffered grievous injuries and succumbed to the said injuries. FIR No. 118 dated 28.3.2014 was registered at Police Station Namli.

Legal heirs of Rajinder Singh filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'The Act'). The Tribunal awarded a sum of Rs. 11,76,000/- along with interest at the rate of 6% per annum.

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

The facts have not been disputed by the parties. There is no dispute with regard to involvement and the rash and negligent driving of the offending vehicle. There is no dispute with regard to age of the deceased. Even the income assessed of the deceased has not been questioned. The multiplier applied by the Tribunal has also been accepted by both the parties.

Learned counsel for the appellants has argued that it was established on record that the deceased was owner of the truck and was possessing a driving license for 'Heavy Motor Vehicle'. He was a self employed person and was having an earning of Rs. 12,000/- per month. His grievance is that the Tribunal has awarded loss of dependency by only considering the monthly income assessed at Rs. 12,000/- without adding future prospects.

Learned counsel for the Insurance Company, on the other hand, defended the award and argued that a just and equitable amount has been awarded. Even if the future prospects have not been awarded still an amount of Rs. 1,20,000/- has been awarded under the conventional heads which is on the higher side. He resisted any further enhancement.

The contention raised by the learned counsel for the appellants deserves partial acceptance. The issue with regard to future prospects and conventional heads has now been dealt with by the latest decision of the Hon'ble Supreme Court of India in **Special Leave Petition (Civil) No. 25590 of 2014 (National Insurance Company Ltd. Vs. Pranay Sethi and others** decided on 31.10.2017. In its decision the Hon'ble Apex Court has held as under:-

> "For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.
>
> xx xx xx
>
> 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."

It is evident that in a case where the deceased who was self employed person and his age was between 50-60 years, 10% future prospects should be added. Keeping in view the above decision of Hon'ble the Apex Court a sum of Rs.70,000/- is awarded under conventional heads which is as follows:-

S.No.	***Heads of claim***	***Amount***
1	Loss to estate	Rs. 15,000/-
2	Funeral expenses	Rs. 15,000/-
3	Loss of consortium	Rs. 40,000/-
	Total	Rs. 70,000/-

The Court has to award a just and equitable compensation to compensate the claimants. Hence the loss of dependency is re-calculated by adding 10% future prospects as per the table given below:-

S.No.	***Heads of claim***	***Amount***
1	Annual dependency	1,44,000/-
2	10% future prospects	14,400/-
3	1/3rd deduction for self expenses	52,800/-
4	Multiplier applied	11
5	Total 105600 x 11	11,61,600/-

The award dated 4.8.2015 is modified to the extent that the amount awarded by the Tribunal of Rs. 11,76,000/- is enhanced to Rs.12,31,600/-.

No other issue has been raised.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

November 21, 2017
archana

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