IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5117-2017 (O&M)
Date of decision: 19.12.2017

Sinderpal Kaur and another .... Appellants

Versus

Mandeep Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Gaurav Sharma, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

****

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 24.04.2017 passed by Motor Accidents Claims Tribunal, Barnala (hereinafter referred to as the 'Tribunal').

On 27.12.2016, Balwinder Singh, aged 20 years, was standing near village Sehjara. He was struck by a rashly and negligently driven tractor bearing registration No.PB-19M/0915 (for short, 'the offending vehicle'). As a result of the accident, he suffered multiple injuries. He was taken to Civil Hospital, Barnala, he was declared brought dead. FIR was got registered on 28.12.2016.

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

The Tribunal awarded a sum of Rs.5,17,000/- along with interest @ 9% per annum.

I have heard learned counsel for the parties and perused the paper book and relevant documents produced by them.

Learned counsel for the appellants has argued that the deceased was a young boy of 20 years old. The Tribunal has assessed his monthly income as Rs.4,000/- which is on the lower side as even the minimum wages during the relevant time was Rs.7458/-per month. He further argued that no future prospects have been awarded. His grievance is that no amount has been awarded for loss of estate.

Learned counsel for the Insurance Company has argued that claimants failed to establish the earning of the deceased as there was no established income and no future prospects should be awarded. She argued that already an amount of Rs.55,000/- has been awarded for funeral expenses and loss of love and affection. She further argued that no amount is to be awarded for loss of love and affection.

The parties have not disputed the facts regarding involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased, deduction made for self expenses and multiplier applied.

The contention raised by learned counsel for the appellants that the monthly income assessed by the Tribunal is on the lower side deserves acceptance. Even in cases, where the claimants have failed to establish the income, the safest yardstick to be followed is to rely upon the minimum wages prevalent at the time of the accident. In the State of Punjab in December 2016, minimum wages for unskilled labourer was Rs.7458/- but for calculation purposes, the same is rounded off Rs.7460/-.

The contention raised by learned counsel for the appellants that future prospects should be awarded deserves acceptance in view of the latest decision 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 ***Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017.*** The Hon'ble Apex Court has held that where the deceased was below 40 years of age and was self employed or having fixed salary, 40% future prospects should be awarded. It has been held that even in case where income is assessed on the basis of minimum wages, future prospects are to be awarded.

The grievance raised by learned counsel for the parties regarding awarding the amounts for loss of love and affection, funeral expenses and loss of estate have to be dealt with in accordance with the decision of the Hon'ble Apex Court in ***National Insurance Company Ltd.'s case (supra).*** It has been held that Rs.15,000/- each to be awarded for loss of estate and for funeral expenses. No compensation is to be awarded for loss of love and affection. Since the compensation amount is being revisited, the compensation under the various heads would be made in consonance with the decision of the Hon'ble Apex Court.

Keeping in view the above discussion and decisions cited, the compensation is recalculated as under :-

Monthly income	Rs.7460/-
Annual income	Rs.89,520/-
Add 40% future prospects	Rs.35,808/-
Total income	Rs.1,25,328/-
½ deduction for self expenses	Rs.62,664/-
Dependency	Rs.62,664/-
Applying multiplier of 18	Rs.11,27,952/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.11,57,952/-

The award dated 24.04.2017 is modified to the extent that the amount awarded by the Tribunal of Rs.5,17,000/-is enhanced to Rs.11,57,952/-.

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

19.12.2017
anju

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

2.Whether the order is reportable : Yes/No