IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

203

FAO-2352-1999 (O&M)

Date of Decision:01.03.2018

Ritta Nanda and others .....Appellants

Versus

Jaswant Singh and others .....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Dinesh Rana, Advocate for Mr. Pritam Saini, Advocate, for the appellants.

Mr. Sanjiv Pabbi, Advocate, for respondent No.3-Insurance Company.

****

HARI PAL VERMA, J.(Oral)

The appellants-claimants have filed the present appeal seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Panipat (for short "the Tribunal") vide award dated 31.07.1999.

As per claim-petition on 17.09.1996, deceased-Ishwar Dutt Nanda @ Ish Nanda, his wife Ritta Nanda, Sushil Kumar and Umesh Kumar were going from Delhi to Bhiwari by car bearing registration No.DEC-2067. When they reached near the factory in the area of village Maneshwar, P.S. Bilaspur, the offending truck bearing registration No.DL-1G-A-2997, which was being driven by respondent no.1 in a rash and negligent manner at a high speed, came from the opposite side and struck against their car. As a result thereof, all the occupants sitting in the car received multiple injuries. Ishwar Dutt Nanda @ Ish Nanda, Umesh Kumar and Amarjit

Singh, driver of the car had died whereas Ritta Nanda and Sushil Kumar received multiple injuries on their persons. An FIR regarding this accident was registered with the concerned Police Station.

In a claim-petition filed under Sections 166 and 140 of the Motor Vehicles Act, the Tribunal has awarded a total compensation of ₹4,92,060/- to the claimants on account of death of deceased-Ishwar Dutt Nanda @ Ish Nanda.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awardable to the claimants.

Learned counsel for the appellants has argued that deceased Ishwar Dutt Nanda @ Ish Nanda was running the business of garnet factory. He was also dealing in waste business (cotton polyester) and was an income tax assessee. Therefore, his income has wrongly been considered as ₹4,000/- per month. The income tax returns shows that the income of the deceased was ₹5,000/- to ₹6,000/- per month instead of ₹4,000/- per month. Moreover, no amount of compensation has been awarded under future prospects and the conventional heads, as held by the Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009.**

On the other hand, learned counsel for respondent No.3-Insurance Company has argued that adequate compensation has already been granted to the claimants and there is no further scope for any enhancement. He has further argued that the deceased was 45 years of age and in case age of the deceased ranges between 41-45 years, multiplier of 14 has to be applied instead of 15. However, he has been fair enough to admit that in view of the law laid down by the Hon'ble Supreme Court in **Pranay**

<u>Sethi's case (supra),</u> the claimants are entitled for future prospects and the amount under the conventional heads.

I have heard the learned counsel for the parties.

The deceased- Ishwar Dutt Nanda @ Ish Nanda was about 45 years of age at the time of accident. The Tribunal has assessed the income of the deceased as ₹4,000/- per month whereas as per income tax returns, income of the deceased was ranging from ₹5,000/- to ₹6,000/- per month. Even otherwise, the deceased was running a garnet factory and dealing in waste business (cotton polyester). Therefore, the deceased must have been earning income more than ₹5,000/- per month in any manner. Accordingly, this Court assess the income of the deceased as ₹5,000/- per month instead of ₹4,000/- per month as assessed by the Tribunal.

Accordingly, on the basis of monthly income as modified above and the future prospects so assessed, this Court finds that the claimants are entitled for compensation in the following manner:-

Monthly income	:	₹5,000/-
Future prospects (25%)	:	₹1,250/-
Total monthly income	:	₹6,250/-
Annual income	:	₹75,000/-
Deductions (1/3rd)	:	₹50,000/-
Total loss of dependency (₹50,000 x 14)	:	₹7,00,000/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-
Total amount of compensation	:	₹7,70,000/-
Amount already awarded	:	₹4,92,060/-
Enhanced amount	:	₹2,77,940/-

So far as, the rate of interest awarded by the Tribunal is concerned, the same is also modified to the extent that instead of awarded rate of interest i.e. 12% per annum, the claimants shall be entitled to interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

March 01, 2018 **(HARI PAL VERMA)**
seema **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No