IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1568 of 2003 (O&M)
Date of decision: 16.04.2018

Kalua Ram and ors. ... Appellants

versus

Munna & ors. ... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Shiv Kumar, Advocate
for the appellants.

Mr. R.C.Gupta, Advocate
for Insurance Company.

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Hari Pal Verma, J.(Oral)

The claimants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accidents Claim Tribunal, Faridabad (in short 'the Tribunal') vide award dated 17.02.2003.

The appellants had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Kamlesh, aged about 22 years, in a motor vehiclular accident, which took place on 23.10.2000. The Tribunal, after considering all aspects awarded a total compensation of Rs.75,600/- along with interest @ 9% per annum from the date of filing of the petition till its realisation. The deceased Kamlesh was working as a labourer so as to earn his livelihood. The claimants are father, mother and two minor brothers and two minor sisters. The accident and liability are not in dispute. The only dispute is with regard to quantum of compensation awardable to the claimants.

Learned counsel for the appellants has argued that the deceased Kamlesh was about 22 years of age at the time of his death and doing labour work. The Tribunal has awarded a meager amount of Rs.75,600/-. The Tribunal has not applied the correct multiplier and has also not awarded any amount towards future prospects and under the conventional heads as held by the Apex Court in ***National Insurance Company Ltd. vs. Pranay Sethi, 2017 SCC 270.*** Even otherwise the income of the deceased has wrongly been assessed. The Tribunal has assessed the income of the deceased as Rs.2,100/- per month whereas the deceased was doing labour work and used to earn Rs.3,000/- per month.

Learned counsel for the insurance company submits that adequate compensation has already been awarded by the Tribunal. However, he fairly accepts that considering the age of the deceased the claimants are entitled to multiplier of 18 instead of 9. He further submits that the claimants are entitled to compensation as per *Pranay Sethi's case (supra)*. He further argued that the Tribunal has wrongly assessed the dependency of the claimants as 1/3rd while it should have been ½.

I have heard learned counsel for the parties.

The death of deceased Kamlesh in the accident is not in dispute. As per postmortem report Ex.P2, the deceased was 18 years of age. The accident was caused in the year 2000 and at that time the minimum wages were Rs.2,100/- per month. Even if it is considered that the deceased was a labourer instead of applying the multiplier of 9, the claimants are entitled to compensation by applying the multiplier of 18. Similarly, the dependency of the claimant is required to be assessed as ½ instead of 1/3rd as held in ***Sarla Verma and ors. vs. Delhi Transport Corp. and anr., 2009***

(6) SCC 121. Since the Tribunal has not added income towards future prospects and the deceased being 18 years of age, 40% of the income should be added towards future prospects. Similarly, an amount of Rs.30,000/- is required to be added under conventional heads. With the assistance of parties, this Court finds that the claimants are entitled to compensation in the following manner:

Heads		***Calculation***
Monthly income		Rs.2,100/-
Future Prospects 40%		Rs.840/-
Total monthly income (monthly income + future prospects)		Rs.2,940/-
Annual income (Total monthly income x 12)		Rs.35,280/-
Deductions toward personal expenses of deceased	1/2	
Annual dependency		Rs.17,640/-
Multiplier	18	
Total loss of dependency		Rs.3,17,520/-
Conventional heads		
Loss of estate	:	Rs.15,000/-
Funeral expenses	:	Rs.15,000/-
Total amount of compensation		Rs.3,47,520/-
Amount already awarded		Rs.75,600/-
Total enhancement		**Rs.2,71,920/-**

Thus, the claimants are entitled to enhanced compensation of Rs.2,71,920/- over and above the amount awarded by the Tribunal. The claimants are also entitled to interest @ 7.5% per annum on the enhanced compensation from the date of filing of claim petition till its reaslisation.

Since by this time, the brothers and sisters of the deceased must have settled down and the father is not a Class I heir, this enhanced amount of compensation shall be paid to the mother i.e. appellant No.2.

With this modification, the appeal is disposed of.

16.04.2018 **(HARI PAL VERMA)**
sonia **JUDGE**

1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No