IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1514-2001(O&M)
Date of Decision: 06.07.2018

Om Pati Devi & others --Appellants

Versus

Rakesh Kumar Mehta & others --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. V.K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate for the appellants.

Mr. Paul S. Saini, Advocate for respondent no.3-
Insurance Company.

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TEJINDER SINGH DHINDSA.J (Oral)

This is an appeal preferred by the claimants/appellants seeking enhancement of compensation.

Briefly noticed claimants preferred a claim petition under Section 166 read with Section 140 of the Motor Vehicles Act on account of death of Ramesh Kumar in a motor vehicle accident. Claimants were the widow, two minor children and widowed mother of deceased.

It had been pleaded that on 25.12.1999 Ramesh Kumar (since deceased) had proceeded to a particular village to visit his relatives and then to return back to his house he was waiting to board a bus and was standing on the berm of the road when a Maruti car bearing registration no.HR-05-F-9696 being driven in a rash and negligent manner by respondent no.1 namely Rakesh Kumar Mehta, hit Ramesh Kumar and who died on account of the injuries suffered. In the claim petition a claim to the tune of Rs.10 lacs along with interest @ 24% was set up.

Upon the pleadings of the parties, the following issues were framed:-

(i) *"Whether the accident in question resulting into death of Ramesh Kumar was caused due to rash and negligent driving of Maruti Zen No. HR-05F-9696 by respondent no.1?OPP*

(ii) To what amount of compensation the claimants are entitled and from whom?OPP

(iii) Whether the claim petition is not maintainable?OPR.

(iv) Relief."

Since the only question involved in the present appeal is with regard to quantum of compensation, as such, only the finding recorded by the Tribunal pertaining to Issue No.2 is being adverted to.

The Tribunal by taking age of the deceased to be 34 years has taken his income/salary as Rs.2470/-. The Tribunal assessed the dependency to be Rs.1660/- per month. Annual loss of income to the claimants was assessed at Rs.20,000/-. Multiplier applied was 13, as such, the total loss arrived at Rs.2,60,000/-. In regard to last ceremonies of the deceased/funeral expenses an amount of Rs.10,000/- was quantified. The total amount of compensation determined by the Tribunal was Rs.2,70,000/-. Tribunal further directed that the claimants would be paid interest @ 12% per annum w.e.f. the date of filing of the claim petition till disbursal of the awarded amount.

Having heard counsel for the parties, this Court is of the considered view that the compensation awarded to the appellants is on the lower side and deserves to be enhanced by keeping in view the parameters laid down by the Apex Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) R.C.R (Civil), 77*** and ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) R.C.R (Civil), 1009***.

At this stage, counsel for the claimants/appellants has furnished to this Court a tabulation containing a break-up as also the total compensation that ought to have been awarded by the Tribunal in terms of the parameters laid down in ***Pranay Sethi's*** case (supra). As per such tabulation the income of the deceased has been reflected as Rs.2470/- per month. It is the same figure as taken by the Tribunal. 40% towards future prospects has been added. After applying a cut of $1/4^{th}$ and multiplier of 16 the compensation amount has been calculated as Rs.4,97,952/-. In addition thereto, Rs.70,000/- has been added to be awarded as compensation under the conventional head. The total compensation, as such, as per the tabulation furnished by counsel for the appellants is Rs.5,67,952/-.

The tabulation giving out the details as also break-up of the compensation awarded by the Tribunal and the revised enhanced compensation is reproduced hereunder:-

Tribunal			High Court		
Income	-	2470	Income	-	2470
Deduction	-	1660 (roughly)	40% future	-	+988
			prospects	-	= 3458
Annual Income	-	1660x12	$1/4^{th}$ deduction		864.5
		= 20,000	Annual	-	2593.5x12
Multiplier	-	20,000x13			= 31,122
		= 2,60,000	Multiplier		31122x16
					= 4,97,952/-
Funeral Expenses		10,000			
Total		= 2,70,000/-	Conventional		
			Heads		= 70,000/-
			Total		= 5,67,952/-
Total Difference:		5,67,952			
		-2,70,000/-			
		= 2,97,952/-			

Copy of the tabulation has been furnished to learned counsel for respondent no.3-Insurance Company. He is not in a position to rebut such revised calculation and fairly submits that such revised calculations are as per the parameters laid down in ***Pranay Sethi's*** case (supra).

In the considered view of this Court, the revised calculations are as per the parameters laid down by Apex Court in ***Pranay Sethi's*** case (supra).

Accordingly, the compensation awarded to the claimants deserves to be enhanced in terms of the tabulation furnished herein above.

Consequently, the present appeal succeeds and the same is allowed by enhancing the compensation from Rs.2,70,000/- to Rs.5,67,952/-. The claimants are also held entitled to interest @ 6% on the enhanced amount and which shall be computed from the date of filing of the claim petition till disbursal of the amount.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

06.07.2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No