IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. FAO-2124-2001 (O&M)
Date of decision: 02.02.2018

Kamlesh Rani and others
.... Appellants

Versus

Pepsu Road Transport Corporation and another
..... Respondents

2. FAO-2132-2001 (O&M)

Vidya Kaur and others
.... Appellants

Versus

Pepsu Road Transport Corporation and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Amit Kohar, Advocate
for the appellants.

Mr. Anupam Singla, Advocate
for respondent No.1.

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Avneesh Jhingan, J.

CM No.13477-CII of 2016 has been filed for fixing of actual date of hearing of the appeal as the case is of the year 2001.

CM is allowed.

With consent of both the parties, the main appeal is taken up for disposal today itself.

The present two appeals have been filed by the legal heirs of Dharam Pal and Ram Sarup against the award dated 07.02.2001 passed by Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal'). They lost their lives in a motor vehicular accident.

The bare facts necessary for adjudication of the present appeals are that on 18.08.1997, Ram Sarup, aged 38 years and Dharam Pal, aged 30 years were travelling in a bus bearing registration No.PJG-7659. The bus was of Pepsu Road Transport Corporation and was going from Chandigarh to Rajpura. The bus was being driven at a very high speed and in a rash and negligent manner. The said bus struck into standing truck loaded with sand. As a result of the accident, many passengers received injuries but Ram Sarup and Dharam Pal lost their lives.

Two claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') were filed.

The Tribunal awarded a sum of Rs.5,10,600/-to the legal heirs of Ram Sarup and a sum of Rs.6,70,000/- along with interest @ 9% per annum to the legal heirs of Dharam Pal.

I have heard the learned counsel for the parties and perused the paperbook and record.

<u>FAO No.2124 of 2001</u>

The parties have not disputed facts regarding involvement of the bus, rash and negligent driving of the bus, age of the deceased and annual income assessed of the deceased.

Learned counsel for the appellants contended that deceased was 30 years of age, multiplier of 17 should have been applied instead of 16. He contends that deceased was survived by 5 dependants, 1/4th deduction for self expenses should have been made instead of 1/3rd. He argued that no amount has been awarded for loss of estate and the amounts awarded for funeral expenses and loss of consortium are on the lower side.

Learned counsel for respondent No.1 defended the award.

The contentions raised by learned counsel for the appellants deserve acceptance in view of the law laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.***

It has been held in the said judgment that where the deceased was in the age group of 26 to 30, a multiplier of 17 should be applied.

In ***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 income is assessed on the basis of minimum wages prevalent at the time of accident even in such cases future prospects have to be added.

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*** has held that the amount of Rs.70,000/- is to be awarded under the conventional heads i.e Rs.15,000/- for loss of estate, Rs.15,000/-

for funeral expenses and Rs.40,000/- for loss of consortium.

The compensation is recalculated as under :-

Annual income	Rs.60,000/-
Add 40% future prospects	Rs.24,000/-
Total income	Rs.84,000/-
1/4th deduction for self expenses	Rs.21,000/-
Dependency	Rs.63,000/-
Applying multiplier of 17	Rs.10,71,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.11,41,000/-

The award dated 07.02.2001 passed in MACT case No. 162T/99/22.09.1997 is modified to the extent that the amount awarded of Rs.6,70,000 /- is enhanced to Rs.11,41,000/-.

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.

<u>FAO-2132-2001 (O&M)</u>

The parties have not disputed facts regarding rash and negligent driving of the bus, age of the deceased, annual income of the deceased and multiplier applied.

The contention raised by learned counsel for the appellants is that the deceased was survived by five dependants, 1/4th deduction for self expenses should have been made instead of 1/3rd. He contended that no future prospects have been awarded. No amount has been awarded for loss of estate and amounts awarded for funeral expenses and loss of consortium are on the lower side.

Learned counsel for respondent No.1 defended the award.

The contentions raised by learned counsel for the appellants deserve acceptance in view of the law laid down by the Hon'ble Apex Court in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77***, ***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 survived by 4 to 6 dependants, $1/4^{th}$ deduction for self expenses has to be made. Where the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects are to be awarded.

In ***Hem Raj's case (supra),*** the Hon'ble Apex Court has held that where the income is assessed on the basis of minimum wages prevalent at the time of accident even in such cases future prospects have to be added.

The Hon'ble Apex Court in ***National Insurance Company Ltd.'s case (supra)*** has held that the amount of Rs.70,000/- is to be awarded under the conventional heads i.e Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium.

The compensation is recalculated as under :-

Annual income	Rs.48,000/-
Add 40% future prospects	Rs.19,200/-
Total income	Rs.67,200/-
1/4th deduction for self expenses	Rs.16,800/-
Dependency	Rs50,400/-
Applying multiplier of 15	Rs.7,56,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.8,26,000/-

The award dated 07.02.2001 passed in MACT case No.161T/99/18.09.1997 is modified to the extent that the amount awarded of Rs.5,10,600/- is enhanced to Rs.8,26,000/-.

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 appeals are partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

02.02.2018
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1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : Yes