327

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

****

FAO No.576 of 2001
Date of Decision: 05.12.2018

Charanjit Kaur and others

Appellants

Versus

Jasbir Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Isha Goyal, Advocate
for the appellants.

None for the respondents inspite of service.

****

AVNEESH JHINGAN, J (Oral):

The award dated 07.02.2000 passed by the Motor Accident Claims Tribunal, Amritsar [for brevity 'the Tribunal'] has been assailed by the legal heirs of Harjit Singh for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The widow, four minor children of Harjit Singh are the appellants. The driver of Bus bearing registration No. RJ-IP-1163

PANKAJ BAWEJA
2018.12.13 16:19
I attest to the accuracy and
integrity of this document
[HIGH COURT, CHANDIGARH]

[hereinafter referred to as 'offending vehicle'] and owner of the offending vehicle have been arrayed as respondents No.1 and 2. Life Insurance Corporation (LIC) is arrayed as respondent No.3 in the appeal. As LIC had issued life insurance policy to the driver of the offending vehicle, hence it was absolved by the Tribunal from the liability to pay any claim awarded.

The brief facts of the case are that on 09.12.1995, Harjit Singh alongwith Inderpal Singh and Prem Dass was travelling in a car bearing registration No. PB-02C-5405. Sukhdev Singh was driving the car. When they reached near Police Station Jagraon, an accident between two trucks had already taken place. Sukhdev Singh and Harjit Singh asked his co-passengers to get down and assist them in saving passengers from the place of accident. While Sukhdev Singh was passing his car, a rashly and negligently driven offending vehicle rammed into his car from behind. As a result of the impact, Harjit Singh and Sukhdev Singh sustained grievous injuries. Both were taken to various hospitals for treatment and ultimately Harjit Singh succumbed to the injuries on 25.12.1995.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced, held that accident was caused due to the rash and negligent driving of the offending vehicle. The owner of the offending vehicle was held liable to pay the compensation. The Tribunal awarded a sum of ₹4,78,800/-.

In the claim petition, it was pleaded that the deceased

PANKAJ BAWEJA
2018.12.13 16:19
I attest to the accuracy and
integrity of this document
[HIGH COURT, CHANDIGARH]

was running a Chemist Shop and was earning ₹4,000/- per month and he was an income tax assessee. AW4 Paramjit Singh from Income Tax Department deposed that Harjit Singh used to pay ₹1,400/- yearly as income tax under Section 115-K of the Income Tax Act, 1961. The Tribunal accepted the income as ₹4,000/-, made 1/3rd deduction for self expenses and applied multiplier of '15'.

Heard learned counsel for the appellants and perused the paper book.

Learned counsel for the appellants contends that the deceased was survived by five dependents and the Tribunal erred in making 1/3rd deduction for self expenses. His grievance is that no future prospects have been awarded and no amount has been awarded under the conventional heads. He further contends that the Tribunal has not awarded any interest on the compensation amount.

The contentions raised by learned counsel for the appellants deserves acceptance. The deceased was 42 years of age and was self-employed. In view of the decisions of the Supreme Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, 25% future prospects are awarded. The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- is awarded to the widow for loss of consortium.

The deceased was survived by five dependents, thus, in consonance with the decision of the Supreme Court in the case of

PANKAJ BAWEJA
2018.12.13 16:19
I attest to the accuracy and integrity of this document
[HIGH COURT, CHANDIGARH]

Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21, 1/4th deduction for self expenses is being made.

As quantum of compensation is being revisited, it would be pertinent to note that while considering the income as ₹4,000/-, as pleaded by the claimants, ₹1,400/- income tax paid as per the statement of DW4 is to be deducted in consonance of the decision of the Supreme Court in ***Manasvi Jain vs. Delhi Transport Corporation, 2014(3) SCC 22.***

The deceased was 42 years old at the time of accident, hence, multiplier of '14' is applied instead of '15' in consonance of the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.***

In view of above discussion, compensation is re-calculated as under:-

Particulars	***Amount (in ₹)***
Annual Income of the deceased as assessed	48,000/-
Less : Income Tax paid	1,400/-
Net Income	46,600/-
25% Future Prospects	11,650/-
Sub Total	58,250/-
1/4th deduction for self-expenses	14,563/-
Annual Dependency	**43,687/-**
Applying Multiplier of '14'	**6,11,618/-**
Compensation towards Funeral Expenses	**15,000/-**
Compensation towards Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
	6,81,618/-

PANKAJ BAWEJA
2018.12.13 16:19
I attest to the accuracy and integrity of this document
[HIGH COURT, CHANDIGARH]

The award dated 07.02.2000 is modified to the extent that amount of ₹4,78,800/- awarded by the Tribunal is enhanced to ₹6,81,618/-. The amount awarded for loss of consortium to widow shall be disbursed to the widow and the balance amount shall be disbursed to the claimants in the same proportion as was held by the Tribunal.

It is pertinent to note here that the Tribunal did not awarded any interest on the compensation, which is statutory in nature. The Supreme Court in ***Dharampal and others Vs. U.P. State Road Transport Corporation 2008(12) SCC 208*** held as under:

> *"8. As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.*
>
> *9. In **National Insurance Company Ltd. Vs. Keshav Bahadur, reported in 2004(2) RCR (Civil) 99: (2004) 2 SCC 370** this Court has held that the provisions require payment of interest in addition to compensation already determined. Even though the expression "may"is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.*
>
> *10. Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest."*

In view of above decision, the claimants shall be entitled to interest @ 7.5% per annum from the date of filing the claim

PANKAJ BAWEJA
2018.12.13 16:19
I attest to the accuracy and
integrity of this document
[HIGH COURT, CHANDIGARH]

petition till the realization of the amount on the entire amount of compensation.

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

December 05th, 2018
pankaj baweja

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No

PANKAJ BAWEJA
2018.12.13 16:19
I attest to the accuracy and
integrity of this document
[HIGH COURT, CHANDIGARH]