IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-806-2001 (O&M)
Date of decision:- 23.05.2018

Gurmeet Kaur and others
...Appellants

Versus

Satpal and others
...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

None for respondent No. 1.

Service of respondent No. 2 dispensed with vide order dated 08.02.2018.

Mr. Vinod Gupta, Advocate,
for respondent No. 3.

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AVNEESH JHINGAN, J. (ORAL)

The present appeal has been filed against the award dated 29.09.2000 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (for short the 'Tribunal').

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

3. The brief facts of the case are that a motor vehicle accident took place on 01.01.1997. Gurbax Singh, aged 50 years, was going on his scooter bearing registration No. PB-23-6430 from Sirhind to Village Reona. At about 6.15 PM, the scooter was struck by a brand new tipper. The said offending vehicle was being driven rashly and negligently. As a result of the

accident, Gurbax Singh received multiple injuries and died at the spot. FIR No. 2 dated 01.01.1997 was registered at Police Station Sirhind.

4. The widow and two sons of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act'). The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle i.e. Tata Tipper bearing chassis No. 360090 FTQ 7200332, Engine No. 697D 24 763679, Model 1996. It was proved that the deceased was working as a head-master in a government school. He was 50 years old. The Tribunal awarded a sum of ₹ 5 lacs alongwith interest at the rate of 12% per annum from the date of application till the date of award and 6% till the date of payment.

5. The present appeal has been filed by the claimants for enhancement of compensation.

6. I have heard the learned counsel for the parties; perused the paper book and the relevant documents produced by them.

7. The learned counsel for the appellants argued that it was proved before the Tribunal by exhibit A-3 that the revised salary of the deceased was ₹ 7760/-. The Tribunal erred in awarding the compensation by taking the salary as ₹ 6792/-. His grievance is that the deduction for self-expenses and multiplier should be applied in consonance with the decision of the Supreme Court in *Smt. Sarla Verma and others Vs Delhi Transport Corporation and another*, 2009(6) SCC 121. He contended that the amounts awarded under the conventional heads are on the lower side.

8. The learned counsel for the insurer defended the award and resisted the enhancement. He argued that since the

revised pay scale has already been taken into consideration, no future prospects would be involved.

9. The contentions raised by the learned counsel for the appellants deserve acceptance.

10. There is no dispute that the revised pay scales were applied from a date earlier to the death of Gurbax Singh. In such circumstances, the compensation is to be calculated considering the revised salary. Having due regard to the decisions of the Supreme Court in *National Insurance Company Limited Vs Pranay Sethi and others, 2017 AIR (SC) 5157* and in *Hem Raj Vs Oriental Insurance Company Ltd.* (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017), since the deceased was a government employee aged 50 years, 15% future prospects are to be added. The appellants are entitled to ₹ 70,000/- under conventional heads i.e. ₹ 15,000/- for loss of estate, ₹ 40,000/- for loss of consortium and ₹ 15,000/- for funeral expenses.

11. The Tribunal erred in applying the multiplier of 8, as per the decision of the Supreme Court in *Smt. Sarla Verma and others (supra)*, since the deceased was 50 years of age, multiplier of 13 has to be applied and 1/3rd deduction is to be made for self-expenses.

12. The compensation is re-calculated as under:-

Monthly Income	₹ 7760/-
15% future prospects	₹ 1164/-
	₹ 8924/-
1/3rd deduction for self expenses	₹ 2974/- (8924-2974= ₹ 5950/-)
Multiplier of 13	5950 x 13 x 12 ₹ 9,28,200/-
Conventional Heads	₹ 70,000/-
Total:	9,98,200/-

13. The award dated 29.09.2000 is modified to the extent that the amount awarded to the tune of ₹ 5 lacs is enhanced to ₹ 9,98,200/-.

14. The appellants would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

15. The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

23.05.2018
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No