IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

505 **FAO-4850-2003 (O&M)**
Date of Decision : 4.9.2018

Nirmala and others **....Appellants**

vs.

Rajbir Singh alias Raghbir Singh and others **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Munfaid Khan, Advocate
for the appellants.

Mr. Ashok Kumar Jindal, Advocate
for respondents No. 1 and 2.

Mr. Paul S. Saini, Advocate
for respondent No.3.

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AJAY TEWARI, J. (Oral)

This appeal has been filed by the appellants against the Award dated 8.4.2003 passed by the Motor Accident Claims Tribunal, Jind awarding compensation of Rs. 4,00,000/- alongwith interest at the rate of 9% per annum on account of death of Hari Om in a motor accident.

Brief facts of the case are that on 11.3.2001 Hari Om-deceased was going to Cheeka on motorcycle and one Kuldeep Singh was pillion rider. When they were coming back from Cheeka to village Alewa, and reached near village Pollar at about 10:15 a.m, Canter driven by respondent No.1 on wrong side, in a rash and negligent manner and at a fast speed, struck the aforesaid motorcycle. Hari Om and Kuldeep sustained grievous injuries in this accident. Respondent No.1 ran away from the spot. The injured were taken to Civil Hospital, Kaithal and later referred to PGI, Chandigarh. Hari Om died on 17.3.2001 due to injuries suffered by him. Claim petition was filed by the claimants and were awarded abovesaid compensation.

First argument raised by the counsel for the appellants is that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 40% future prospects have to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 40% future prospects.

Second issue raised by the counsel for the appellants is that as per the Pranay Sethi judgment (supra) under the conventional heads Rs.54,000/- more have to be granted. Counsel for the insurance company has very fairly accepted this fact. Consequently, I award Rs. 54,000/- more under the conventional heads.

Third issue raised by the counsel for the appellants is that the Tribunal erred in applying the deduction $1/3^{rd}$ and it should be $1/4^{th}$ as there are six dependents. Learned counsel for the insurance company is not in a position to deny this. Therefore, deduction of $1/4^{th}$ is ordered.

Counsel for the appellants has further stated that deceased was in hospital for six days and was shifted from Kaithal to PGI, Chandigarh and nothing has been paid on account of this aspect. Counsel for the respondent-insurance company is not in a position to deny this fact. Consequently, I award Rs.10,000/- under this aspect.

Next argument raised by the counsel for the appellants is that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298,*** the multiplier of 17 has to be applied instead of 16. Learned counsel for the insurance company is not in a position to deny this also. Consequently, it is held that multiplier of 17 has to be applied instead of 16.

Counsel for the insurance company, however, has pointed out that interest at the rate of 9% awarded by the Tribunal is highly excessive in today's regime. I find this to be correct. Therefore, I award 7.5% rate of interest on the enhanced amount from the date of filing of the claim petition till the date of realization.

It is made clear that out of the total enhanced amount, 10% will go to the appellant No.6 while remaining will be apportioned to the appellant Nos. 1 to 5. The share of the minors be put in a fixed deposit till they attain the age of the majority.

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

4.9.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No