

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**FAO No. 1258 of 2004
Date of Decision : 15.1.2018**

RAM REHI AND ANOTHER

....APPELLANTS

VS

RAUNKI RAM AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Arora, Advocate
for the appellants.

Mr. Pankaj Gupta, Addl. A.G., Punjab.

AVNEESH JHINGAN, J.(Oral)

The present appeal has been filed against the award dated 8.12.2003 passed by the Motor Accident Claims Tribunal, Jalandhar (for short, 'the Tribunal').

The record of this case was burnt in fire and from the salvaged record of the partially burnt case the file was reconstructed subject to all just exceptions and further verification.

Motor vehicular accident occurred on 6.1.2002. Jiya Lal, aged 36 years was going on a rickshaw when a rashly and negligently driven bus bearing registration No. PB-12-A-9611 hit the rickshaw. As a result of the accident head of Jiya Lal was crushed under the rear wheel of the bus.

A claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') by the widow and daughter of the deceased. The Tribunal held that there was 50-50 contributory

negligence. The amount of compensation was calculated as Rs.2,40,400/- but because of contributory negligence, Rs.1,20,200/- was awarded to the claimants alongwith interest @ 9% per annum.

The present appeal has been filed for enhancement of compensation.

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

There is no dispute raised in the present appeal by the parties with regard to involvement of the bus, age of the deceased, deduction for self expenses and there is no challenge to contributory negligence. Learned counsel for the appellants argued that the deceased was 36 years of age, the multiplier of 12 has wrongly been applied. His further grievance is that no future prospects have been awarded and the amounts awarded under the conventional heads are on the lower side.

The contentions raised by the learned counsel for the appellants deserve acceptance in spite of the resistance from learned counsel for the respondents. The contentions are duly supported by the decisions of the Hon'ble Apex Court in the cases of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another**, reported as **(2009) 6 SCC 121**, "**National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014**", decided on 31.10.2017 and **Hem Raj vs. Oriental Insurance Company Ltd. Civil Appeal No. 19603 of 2017**, decided on 22.11.2017

In Sarla Verma's case (Supra), the Hon'ble Apex Court has held that where deceased is in the age group of 36 to 40, multiplier of 15 is to be applied. In Pranay sethi's case (Supra) the Hon'ble Supreme

Court has held that where deceased was below 40 years of age and was self employed or was having fixed salary, 40% future prospects are to be awarded. It has further been held that Rs. 70,000/- is to be awarded under the conventional heads i.e Rs. 15,000/- each for loss of estate and funeral expenses and Rs. 40,000/- for loss of consortium. In Hem Raj's case (Supra)the Supreme Court has held that even in cases where the monthly income of the deceased is assessed on the basis of minimum wages still future prospects are to be awarded.

It would be pertinent to mention here that even if there was contributory negligence of 50%, still the amount to be awarded under the conventional heads is not to be reduced. It is only the loss of dependency calculated which is to be restricted to 50% of the assessed amount.

For the reasons mentioned above the compensation is recalculated as under:-

Monthly Income	=	Rs.2400/-
1/3rd deduction for self expenses	=	Rs.800/-
Dependency by applying multiplier of 15	=	1600x12x15=2,88,000/-
Future prospects @ 40%	=	Rs.1,15,200/-
Total	=	Rs.4,03,200/-
Less 50% reduced because of contributory negligence	=	Rs.2,01,600/-
Compensation to be awarded for loss of dependency	=	Rs. 2,01,600/
Conventional heads	=	Rs.70,000/-
Total	=	Rs. 2,71,600 /-

Consequently, the award dated 8.12.2003 is modified to the extent that the compensation of Rs. 1, 20,200/- awarded by the Tribunal is enhanced to Rs.2,71,600/-.

The appellants shall be entitled to the enhanced amount along with interest as awarded by the Tribunal from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

15.1.2018
anuradha

(AVNEESH JHINGAN)
JUDGE

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