IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1034 of 2005 (O&M)
Date of decision: 19.02.2018

Raj Kumari and others .... Appellants

Versus

Rajesh Kumar Tiwari and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Amit Singla, Advocate for
Mr. M.C.Chaudhry, Advocate
for the appellants.

None for respondents No.1 and 2 inspite of service.

Mr. Suvir Dewan, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The present appeal has arisen from award dated 06.09.2004 passed by Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal').

The record of this case was burnt and has been reconstructed from the salvaged record and copies supplied by counsels, subject to all just exceptions.

An accident took place on 16.07.2002. Suraj Pal, aged 34 years, was going on his bicycle towards Guru Nanak High School, Sector 30-B, Chandigarh. When he reached near the traffic lights of Sector 29-30, a rashly and negligently driven three wheeler bearing registration No.CH-03-D-8586 dashed into the bicycle of Suraj Pal. Three wheeler was carrying gas cylinders. Suraj pal suffered multiple injuries and was taken to PGI, Chandigarh, where he succumbed to his injuries on 19.07.2002.

A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal awarded a sum of Rs.2,95,000/- along with interest @ 9% per annum.

The present appeal has been filed for enhancement of compensation.

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

Learned counsel for the appellants assailed the award by stating that the Tribunal erred in applying the multiplier of 15. He argued that the deceased was working as a Gardner in Guru Nanak Khalsa School, Sector-30, Chandigarh, from where he was getting a salary of Rs.2075/- per month. He was also working in neighbouring houses from where he was having an additional income. His grievance is that the Tribunal erred in considering the monthly income of the deceased as Rs.2800/-.

Learned counsel for the insurer defended the award and argued that no case is made out for enhancement.

The salary of the deceased was duly proved before the Tribunal. Extract of salary register and the service book was exhibited as C5 and C6. There was no rebuttal to the fact that he was working as Gardner in neighbouring houses. In such circumstances, the monthly income of the deceased is taken as Rs.3300/-. As per IInd Schedule to the Act, a multiplier of 17 should have been applied. Rs.9500/- are to be awarded for funeral expenses, loss of estate and loss of consortium. The compensation is recalculated as under :-

monthly income	Rs.3300/-
Annual income	Rs.39,600/-
1/3rd deduction for self expenses	Rs.13,200/-
Dependency	Rs.26,400/-
Applying multiplier of 17	Rs.4,48,800/-
Funeral expenses, loss of estate and loss of consortium	Rs.9500/-
Total	Rs.4,58,300/-

The award dated 06.09.2004 is modified to the extent that the amount awarded of Rs.2,95,000/- is enhanced to Rs.4,58,300/-.

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 appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

19.02.2018
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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No