IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2677 of 2005
DECIDED ON: DECEMBER 15, 2018

JASVIR KAUR AND OTHERS

.....APPELLANTS

VERSUS

AMARJEET SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ashok Jindal, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3-Insurance Company.

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AVNEESH JHINGAN, J (ORAL)

The award dated 28.02.2005 passed by the Motor Accident Claims Tribunal, Bathinda (for short 'the Tribunal') has been assailed by the legal heirs of Gurdeep Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The widow, two major sons and one minor son of Gurdeep Singh (deceased) are the appellants. The driver of Truck bearing registration No. RJ-13-G-2469 (hereinafter referred to as 'offending vehicle'); owner and insurer, i.e, National Insurance Co. Ltd. of the offending vehicle have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts emanating from the record are that on 16.08.2003, Gurdeep Singh was going on his bicycle, he was being followed by Beant Singh on a separate bicycle. When they reached near the market of Lehra Mohabbat, the bicycle of Gurdeep Singh was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he fell down and was ran over by the offending vehicle. He died at the spot. FIR No. 127, dated 16.08.2003 was registered at Police Station Nathana.

The legal heirs of Gurdeep Singh filed a claim petition under Section 166 of the Act.

The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a compensation to the tune of ₹3,50,000/- alongwith interest @4% per annum.

The claimants in the claim petition pleaded that the deceased was 45 years old and getting a monthly pension of ₹1899/- and was also getting a monthly salary of ₹2700/-. The Tribunal after considering the fact that family was also receiving family pension on account of military service, assessed the monthly earning of the deceased as ₹3600/- per month. 1/3rd deduction for self-expenses was made and multiplier of 12 was applied.

Heard learned counsel for the parties, perused the paper book.

Learned counsel for the appellants contends that no future prospects have been awarded and the Tribunal erred in making 1/3rd deduction for self-expenses as the deceased was survived by four dependants. He argues that the deceased was 45 years old at the time of accident, hence, multiplier of 14 is to be applied. His further grievance is that the amount awarded under the conventional head is on the lower side.

Learned counsel for the insurer defends the award and resists any further enhancement.

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

The deceased was 45 years old at the time of accident and having due regard to the decisions of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi and others;*** ***2017 (4) RCR (Civil) 1009*** and ***Hem Raj vs. Oriental Insurance Company*** Ltd; **2018 (2) PLR 480; 25**% future prospects are awarded. Claimants are also entitled to a sum of ₹15,000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium.

There is no dispute with regard to the fact that the deceased was 45 years old at the time of accident and was survived by four dependants. Hence, 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,*** 1/4th deduction for self-expenses is to be made and multiplier of 14 is to be applied.

In view of afore-said discussion, the compensation is recalculated as under:

	Head	**Compensation awarded**
(i)	Income	₹3600/- per month
(ii)	Future prospects at 25%	₹900/- per month
(iii)	Total Income	₹4500/- per month
(iv)	Deduction of personal expenses	₹1125/- (i.e. 1/4th of total income)
(v)	Multiplier	14 (as per age of deceased)
(vi)	Total Dependency	₹3375x12x14=₹5,67,000/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of Consortium	₹40,000/-
	Total Compensation awarded	₹6,37,000/-

The award dated 28.02.2005 is modified to the extent that the amount awarded of ₹3,50,000/- is enhanced to ₹6,37,000/-. The appellants shall be entitled to interest @7.5 % per annum on the enhanced amount of compensation from the date of filing of claim petition till the realization of the amount.

The appeal is partly allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

DECEMBER 15, 2018
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No

CM No. 23902-CII of 2013 in
FAO No. 5702 of 2013

FAMINA AND OTHERS V. ARSHAD AND OTHERS

Present: Mr. Rajesh Lamba, Advocate
for the applicants/appellants.

Mr. A.S. Sidhu, Advocate and
Mr. Aman Mittal, Advocate
for respondent No.3.

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In view of averments made in the application the same is allowed and delay of 30 days in filing the appeal is condoned.

CM stands disposed of.

(AVNEESH JHINGAN)
JUDGE

DECEMBER 11, 2018
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