IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1) FAO No. 3199 of 2007 (O&M)
Date of decision : 15.12.2018
...

Smt. Sheela and another
................Appellants

vs.

Sat Parkash and others
.................Respondents

2) FAO No. 3200 of 2007 (O&M)
Date of decision : 15.12.2018
...

Smt. Sheela
................Appellant

vs.

Sat Parkash and others
.................Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Naren Partap Singh, Advocate for
Mr. Sunil Panwar, Advocate for the appellants.

Mr. Ramender Chauhan, advocate for respondent No.1.

Mr. R.C. Gupta, Advocate for respondent No.2.

Mr. Vinod Gupta, Advocate for respondent No.5.

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H. S. Madaan, J. (Oral)

FAO 3199-2007

On account of death of Sushil, in a road accident, his wife Smt. Sheela and minor son Pardeep @ Banti, had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, against

Sat Parkash, driver and owner, National Insurance Company Limited, Bhiwani, insurer - of vehicle No. HR 20G/4949. Sunde – driver, Naresh Kumar owner and New India Insurance Company Limited, Bhiwani, of truck No. HR 16/1211, were also impleaded as respondents.

After contest, the claim petition was allowed by the Motor Accident Claims Tribunal, Bhiwani, vide award dated 9.1.2007 and compensation of Rs.4,43,320/- was awarded to the claimants with interest at the rate of 7% per annum payable by respondents No. 1 to 5 jointly and severally in equal shares. The interest was awarded from the date of filing of claim petition till actual realization. The claimants were not satisfied with the said award and have approached this Court by way of filing the present appeal.

Notice of the appeal was given to the respondents, who have put in appearance.

I have heard learned counsel for the parties, besides going through the record.

Learned counsel for the parties have requested that the appeal be decided in light of the law laid down by the Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and others. 2017 (4) RCR (Civil) 1009.*** As such in view of the ratio of that authority, claimants are entitled to get 25% of the income of the deceased on account of future prospects. Furthermore, since no compensation has been awarded under the conventional Heads, namely, loss of estate, loss of consortium and funeral expenses, a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively, is required to be awarded.

In view of ratio of authority ***Smt. Sarla Verma vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77,*** the multiplier of 15 is required to be applied, instead of multiplier of 11, put into application by the Tribunal.

Under the circumstances, by making addition of 25% in the monthly income of the deceased, the same is worked out to be Rs.6,771/- (5417 + 1354). After deducting 1/3rd of the amount on account of personal expenses of the deceased, the monthly dependency of the claimants comes to Rs.4514/- (6771 – 2257). The annual dependency, by using the multiplier of 15, the compensation is worked out to be as Rs. 8,12,520/-(4514 X 12 X 15). Adding a sum of Rs.70,000/- under the conventional Heads, the total compensation comes out to Rs. 8,82,520/-. The Tribunal has awarded compensation of Rs.4,43,320/-. In that way the compensation is enhanced by Rs.4,39,200/-. The amount shall be apportioned as per directions of the Tribunal given in the award. The liability of the respondents to pay the enhanced amount shall be as per direction of the Tribunal in the award. The claimants shall be entitled to get interest @ 7.5% per annum, on the enhanced amount from the date of filing of appeal till actual realization.

The appeal stands disposed of accordingly with costs.

FAO 3200-2007

Smt. Sheela claimant had preferred another claim petition against the respondents arrayed in the first Claim petition bearing MACT Petition No. 169 of 2003, on account of death of minor daughter of the claimant and Sushil – deceased, namely, Shilpa, who was aged about 13 years in that very accident.

The Tribunal vide consolidated award dated 9.1.2007, had awarded a sum of Rs.1 lac as compensation.

Learned counsel for the parties have submitted that in view of the latest law laid down, the amount of compensation may be enhanced to Rs. 3 lacs, payable by respondents No. 1 to 5 jointly and severally.

The request is accepted and the compensation of Rs. 1 lac awarded by the Tribunal is enhanced to Rs. 3 lacs. The liability to pay the amount shall be as per directions given by the Tribunal in the award. The other conditions and directions in the award shall be also applicable to the payment of the enhanced amount. The claimant shall be entitled to get interest @ 7.5% per annum, on the enhanced amount from the date of filing of appeal till actual realization.

The appeal stands disposed of accordingly with costs.

(H.S. Madaan)
Judge

15.12.2018
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Whether speaking / reasoned Yes / No

Whether reportable Yes / No