IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1465 of 2011 (O&M)
Date of decision: 19.02.2018

Sushila Devi and another .... Appellants

Versus

Raj Kumar and others ..... Respondents

2. FAO No. 4509 of 2010 (O&M)

Sunita and others .... Appellants

Versus

Raj Kumar and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Amit Singla, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The present appeals have arisen from award dated 10.04.2009 passed by Motor Accidents Claims Tribunal, (Fast Track Court), Hisar (hereinafter referred to as 'the Tribunal').

Legal heirs of the deceased Sanjay Bansal, aged 36 years, filed two separate claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'). The Tribunal awarded a consolidated sum of Rs.4,62,510/-along with interest @ 9% per annum.

An accident took place on 27.06.2005 at about 8.00/8.30 p.m. Sanjay Bansal was going on his cycle. When he reached near four wheeler Chowk, a rashly and negligently driven truck bearing registration No.HR-39/2625 came from behind and struck against the cycle of Sanjay Bansal. As a result of the accident, he suffered injuries and was taken to Metro Hospital, Hisar where he was declared brought dead. FIR No.349 dated 27.06.2005 was registered at Police Station City Hisar.

The Tribunal while awarding the compensation considered the age of the deceased as 36 years and the fact that he was survived by widow, three minor children and old parents. Considering the age of the deceased, multiplier of 15 was applied.

The present appeals have 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 arguing that (i) the Tribunal erred in assessing the annual earning of the deceased as Rs.43,920/-; (ii) no future prospects have been added; (iii) the amounts awarded under the conventional heads are on the lower side; and (iv) the Tribunal erred in making 1/3rd deduction for self expenses.

Learned counsel for the insurer defended the award and argued that no case is made out for enhancement. He argued that income has rightly been taken as Rs.43,920/- per annum as per the income tax return.

The contention raised by learned counsel for the appellants deserves acceptance. The deceased was working as part time Accountant with three firms. His income tax return for assessment year 2004-05 was produced before the Tribunal as Ex.P1. The said return was proved by the deposition of PW1-Pawan Goyal, Senior Tax Assistant, ITO Income Tax Officer, Ward No.4, Hisar. As per the said return, the salary received by the deceased was Rs.73,200/- per annum. The Tribunal erred in considering the annual salary received by the deceased after deducting the standard deduction.

Giving due regard to the decision of the Supreme Court in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77,*** since the deceased was survived by more than four dependants, 1/4th deduction is to be made for self expenses.

Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157 ,*** has held that the amount of Rs.70,000/- is to be awarded under the conventional heads i.e Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium and 40% future prospects are to be added.

The compensation is recalculated as under :-

Annual income	Rs.73,200/-
Less income tax to be paid	Rs.1,000/-
Total	Rs.72,200/-
Add 40% future prospects	Rs.28,880/-
Total income	Rs.1,01,080/-
1/4th deduction for self expenses	Rs.25,270/-
Dependency	Rs.75,810/-
Applying multiplier of 15	Rs.11,37,150/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.12,07,150/-

The award dated 10.04.2009 is modified to the extent that the amount awarded of Rs.4,62,510/- is enhanced to Rs.12,07,150/-.

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