IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3050 of 2011 (O&M)
Date of decision: 26.04.2018

Pinki and others .... Appellants

Versus

Chhotu @ Chhotu Ram and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Jai Bhagwan Sharma, Advocate
for the appellants.

Mr.Sandeep Kotla, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The widow, two minor children and the parents of Ram Pal are in appeal against the award dated 01.09.2010 passed by Motor Accidents Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal').

An accident took place on 28.04.2009. Ram Pal, aged 26 years, was coming from his fields on foot. When he reached near Ravi Dass Mandi in village Khanda, he was struck by a rashly and negligently driven truck bearing registration No.HR-64-2870 (for short, 'the offending vehicle'). He was run over by the truck and died at the spot. FIR No.89 dated 29.04.2009 was registered at Police Station Alewa, District Jind.

A claim petition under Section 166 of Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The monthly income of the deceased was assessed as Rs.3600/-. The Tribunal awarded a total sum of Rs.4,70,800/- along with interest @ 9% per annum.

Learned counsel for the appellants has raised no grievance with regard to the monthly income assessed by the Tribunal. The contention raised is that the deduction for self expenses and multiplier applied is not in consonance with the decision of the Supreme Court in ***Smt. Sarla Verma Vs. Delhi Transport Corporation, 2009(6) SCC 121.*** He further contended that no future prospects have been added and the amounts awarded under the conventional heads are on the lower side.

The contentions raised by learned counsel for the appellants deserve acceptance. The facts that the deceased was 26 years at the time of accident and was survived by four dependants are not in dispute. As per ***Sarla Verma's case (supra),*** deduction of 1/4th has to be made for self expenses and a multiplier of 17 has to be applied.

Having due regard to the decision of the Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157*** and ***Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017,*** 40% future prospects are to be awarded and Rs.70,000/- is to be awarded under the conventional heads.

The compensation is recalculated as under :-

Annual income as assessed by the Tribunal	Rs.43,200/-
1/4th deduction for self expenses	Rs.10,800/-
Dependency	Rs.32,400/-
40% future prospects	Rs.12,960/-
Total	Rs.45,360/-
Applying multiplier of 17	Rs.7,71,120/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.8,41,120/-

The award dated 01.09.2010 is modified to the extent that the amount awarded of Rs.4,70,800/- is enhanced to Rs.8,41,120/-.

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 party allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

26.04.2018
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1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : No