IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2269 of 2012 (O&M)
Date of decision: 23.10.2018

Smt. Parvesh and others .... Appellants

Versus

Dilbag Singh and another ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- None for the appellants.

Mr. Arun Sharma, Advocate for
Mr. T.K.Joshi, Advocate
for respondent No.2-Insurance Company.

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Avneesh Jhingan, J. (Oral)

The present appeal has been filed against award dated 24.11.2011 passed by Motor Accidents Claim Tribunal, Panipat (hereinafter referred to as 'the Tribunal').

2. The parents, widow and two minor children of Vinod Kumar (since deceased) are in appeal. The owner and driver of combine bearing registration No.HR-40A-9262 (for brevity, 'the offending vehicle') and insurer of the offending vehicle i.e Reliance General Insurance Company Ltd. have been arrayed as respondents No.1 and 2 respectively in the appeal.

3. The brief facts as emanating from the record are that on 30.03.2010 at about 10.00 a.m., Vinod Kumar was going from Safidon on his motorcycle bearing registration No.HR-06P-1798. When he reached near bypass Safidon, he was hit from behind by a rashly and negligently driven offending vehicle. As a result of the accident, he died on the spot. FIR No.91 dated 30.03.2010 was registered at Police Station, Safidon, District Jind.

4. The legal heirs of the deceased filed a claim petition under Section

166 and 140 of the Motor Vehicles Act, 1988 (for brevity, 'the Act').

5. The Tribunal, after considering the facts and appreciating the evidence produced, held that the accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹6,21,000- along with interest @ 6% per annum.

6. The claimants pleaded that the deceased was earning ₹10,000/- per month but the said claim was not substantiated. The Tribunal assessed the monthly earning of the deceased as ₹4500/- i.e. The minimum wages for a skilled labourer prevalent at the time of accident. The age of the deceased was proved as 31 years from the matriculation certificate. Hence, multiplier of 16 was applied. The Tribunal made 1/3rd deduction for self expenses whereas the deceased was survived by four dependents. The amounts awarded under the conventional heads are on the lower side and no future prospects have been awarded.

7. Learned counsel for the insurer defended the award and resisted any further enhancement.

8. In consonance with 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., 2018(2) PLR, 480***, since the deceased was 32 years of age, hence, 40% future prospects are to be added. The deceased was survived by 4 dependents, therefore, 1/4th deduction for self expenses is to be made. The claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate and ₹40,000/- is awarded for loss of consortium to the widow.

9. In view of the decision of the Supreme Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) R.C.R.***

(Civil) 333, ₹40,000/- is awarded to the mother as filial consortium and ₹40,000/- is awarded to both the minor children to loss of parental consortium.

10. In view of the above discussion, the compensation is recalculated as under :-

Monthly income	₹4,500/-
40% future prospects	₹1800/-
Total income	₹6300/-
1/4th deduction for self expenses	₹1575/-
Total	₹4725/-
Annual Dependency (4725x12)	₹56,700/-
Applying multiplier of 16 (56,700x16)	₹9,07,200/-
Funeral expenses	₹15,000/-
Loss of estate	₹15,000/-
Loss of consortium to widow	₹40,000/-
Loss of consortium to mother	₹40,000/-
Loss of consortium to children (₹40,000/-each)	₹80,000/-
Total	₹10,97,200/-

11. The award dated 24.11.2011 is modified to the extent that the amount awarded by the Tribunal of ₹6,21,000/-is enhanced to ₹10,97,200 /-.

12. The claimants shall be entitled to enhanced amount along with interest @ 7.5% per annum from the date of filing the claim petition till the realisation of the amount. It is clarified that enhanced amount shall be disbursed in same manner as was held by the Tribunal.

13. The the appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

23.10.2018
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1.Whether the order is speaking/reasoned: Yes/No
2.Whether the order is reportable : Yes/No