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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

****

**FAO No.3166 of 2012
Date of Decision : 10.12.2018**

Smt. Babli and others

Appellants

Versus

Ranbir Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Raman Chawla, Advocate
for respondent No.1.

None for respondent No.2.

Mr. Sukhdarshan Singh, Advocate
for respondent No.3.

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AVNEESH JHINGAN, J (Oral):

The award dated 01.10.2007 passed by the Motor Accident Claims Tribunal, Hisar [for brevity 'the Tribunal'] has been assailed by the legal heirs of Sindhi Ram for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The widow and two minor children are the appellants. The driver of TATA-407 bearing registration No.HR-20GA-0492 [hereinafter referred to as 'offending vehicle'], owner and insurer of the offending vehicle have been arrayed as respondents No.1 to 3 respectively in the appeal. Father, Mother and Sister of the deceased are performa respondents No.4 to 6 in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 02.04.2005, Sindhi Ram was sitting in a rickshaw and talking to the owner of the rickshaw, in the meanwhile, a rashly and negligently driven offending vehicle struck the rickshaw. Due to the impact, rickshaw turned and Sindhi Ram fell down on the road. He sustained serious injuries, he was shifted to General Hospital, Hansi and from where, he was shifted to Metro Hospital, Hisar, where he died on 02.04.2005. FIR No.123 was registered at Police Station City Hansi.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced, held that accident was caused due to 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 sum of ₹4,20,000/- alongwith interest @ 9% per annum. The said amount included ₹12,000/- awarded for funeral expenses, loss of estate and transportation charges.

In the claim petition, it was pleaded that the deceased was working as Carpenter and was earning ₹7,500/- per month. The claimants failed to adduce any reliable evidence regarding monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹3,000/-, treating him to be an un-skilled labourer; made 1/3rd deduction for self-expenses and multiplier of '17' was applied.

Heard learned counsel for the parties, perused the paper book and relevant documents produced.

Learned counsel for the appellants contends that no future prospects have been awarded. Further, the deceased was survived by widow, two minor children, parents and unmarried sister, hence the Tribunal erred in making 1/3rd deduction. His grievance is that amounts awarded under the conventional heads are on the lower side. Apart from these, no other issue has been raised.

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

The contentions raised by learned counsel for the appellants deserve acceptance. Having due regard to the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,*** 40% future prospects are awarded. Further, the appellants are entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- is awarded to the widow for loss of consortium.

The deceased was survived by four dependents, hence in consonance with decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** ¼th deduction for self-expenses is made.

The Tribunal has rightly applied multiplier of '17' as the deceased was 28 years old. It is pertinent to note that there is no dispute on the monthly income assessed by the Tribunal.

In view of above discussion, compensation is re-calculated as under:-

Particulars	***Amount (in ₹)***
Monthly income of the deceased assessed	3,000/-
40 % Future Prospects	1,200/-
Sub Total	4,200/-
1/4th deduction for self expenses	1,050/-
Monthly Dependancy	3,150/-
Annual Dependancy	37,800/-
Applying multiplier of '17'	**6,42,600/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**7,12,600/-**

The award dated 01.10.2007 is modified to the extent that amount of ₹4,20,000/- awarded by the Tribunal is enhanced to ₹7,12,600/-. The amount awarded for loss of consortium to widow shall be disbursed to the widow and the balance amount shall be disbursed to the claimants in the same proportion as was held by the Tribunal.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

December 10th, 2018
pankaj baweja

1. Whether speaking/ reasoned : **Yes**/ No
2. Whether reportable : **Yes**/ No