IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 888 of 2011

DATE OF DECISION : 15.01.2018

Harjit Kaur and others

.... APPELLANTS

Versus

Narinder Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sandeep Arora, Advocate, for the appellants.

Mr. R.K. Arya, Advocate, for respondent No.1.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 10.05.2010 passed by the Motor Accident Claims Tribunal, Gurdaspur (for short, `the Tribunal').

On 21.09.2004, Kanwaljit Singh, aged 40 years, met with a motor vehicular accident. He was going on his scooter, when a rashly and negligently driven jeep bearing registration No. PB-18F-0779 struck the scooter and turned turtle. Kanwaljit Singh sustained head injury as well as other multiple injuries. He died on his way to Hospital. FIR No.117 dated 22.09.2004 was registered at Police Station Sri Hargobindpur.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, `the Act') was filed by the widow and two minor daughters of the deceased. The Tribunal awarded a sum of ₹ 2,70,000/- for loss of dependency and ₹ 2,000/- on account of funeral expenses.

I have heard learned counsel for the parties and perused the paper-book and record of the case.

The appellants have not disputed the loss of dependency calculated by the Tribunal, but raised grievance that no future prospects have been awarded, the amount awarded for funeral expenses is on lower side and no compensation has been awarded for loss of estate and loss of consortium.

The age of the deceased was 40 years. As per the decision of the Hon'ble Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017,*** in cases where the deceased was in the age group of 40 to 50 years, and was either self employed or having fixed salary, 25% future prospects are to be awarded.

Further, in ***Hem Raj Vs. Oriental Insurance Company Ltd., Civil Appeal No. 19603 of 2017, decided on 22.11.2017***, has held that future prospects are to be awarded even in cases where earning of the deceased is assessed relying upon the minimum wages prevalent at the time of the accident.

In ***Pranay Sethi's case*** (supra), it has been held that a sum of ₹ 70,000/- is to be awarded under the conventional heads, i.e. ₹ 15,000/- each for loss of estate and funeral expenses; and ₹ 40,000/- for loss of consortium.

Since the amount of ₹ 2,70,000/- awarded by the Tribunal for loss of dependency is not disputed, 25% of the said amount, i.e. ₹ 67,500/-, is awarded for future prospects. The amount of ₹ 2,000/-, awarded for funeral expenses, is enhanced to ₹ 15,000/-. Further, the amounts of ₹ 15,000/- and ₹ 40,000/- are awarded for loss of estate and loss of consortium, respectively.

Consequently, the award dated 10.05.2010 is modified to the extent that the compensation of ₹ 2,72,000/- awarded by the Tribunal is enhanced by ₹ 1,35,500/-.

The appellants shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

January 15, 2018 **(AVNEESH JHINGAN)**
ndj **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No