IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4169 of 2012 (O&M)

Date of Decision: 27.04.2018

Ranbir Singh and another ....Appellants

Versus

Rajesh Kumar and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vikas Lochab, Advocate
for the appellants.

Ms. Madhu Sharma, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The appeal has been filed against the award dated 05.03.2012 passed by the Motor Accident Claims Tribunal, Sonipat (for short 'the Tribunal').

Unfortunate parents of Sandeep alias Monu who lost their 24 years son in a motor vehicular accident are in appeal for enhancement of the compensation awarded by the Tribunal.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by parents of the deceased and the Tribunal awarded a sum of Rs.4,06,000/- alongwith interest at the rate of 7.5% per annum.

In the present appeal, the grievances are that the income assessed is on lower side; multiplier has been wrongly applied; no future prospects have been added; the amount awarded for funeral expenses is on lower side and no amount has been awarded for loss of estate.

The bare facts necessary for adjudication of present appeal are that an accident took place on 28.06.2008. Sandeep alias Monu was driving the motor cycle bearing registration No.HR-42-7517. On reaching near village Garhi Ujalakhan a car bearing registration No. HR-10-F-5397 (for short 'the offending vehicle') struck against the motor cycle. Sandeep suffered injuries and was taken to Civil Hospital, Gohana. From there he was taken to PGIMS Rohtak and he was declared dead by the attending Doctors. FIR No. 174 dated 29.06.2008 was registered at Police Station City Gohana.

The Tribunal held that the accident was caused because of rash and negligent driving of offending vehicle. The age of the deceased was proved as 24 years.

It was claimed that the deceased was earning Rs.30,000/- per month as he was running a Dairy farm and giving tuitions. The occupation and monthly earning of the deceased was not proved. In such circumstance, the Tribunal assessed the monthly earning of the deceased as Rs.6000/-. No witness or evidence was produced to establish that he was running a Dairy farm. No sale voucher or material to show the sale of Dairy products was produced. In such circumstance, one of the safest yard stick is to rely upon the minimum wages prevalent at the time of accident. The income assessed by the Tribunal cannot be faulted in absence of any evidence to the contrary. The Tribunal erred in applying the multiplier by considering the age of the claimants. Multiplier is to be applied as per age of deceased. Reliance is placed on decision of Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and others*** 2017 AIR (SC) 5157. ***Shri Nagar Mal Vs. Oriental Insurance Company Limited, (Civil Appeal No. 448 of 2018)***, decided on 19.01.2018 and ***Sube Singh Vs. Shyam Singh (Civil Appeal No. 7176 of 2015),*** decided on 09.02.2018, it has been held that multiplier is to be applied having regard to the age of the deceased.

The deceased was aged 24 years at the time of accident and hence multiplier of 18 is to be applied. Further, in case of a bachelor, ½ deduction is to be made for self expenses.

Supreme Court in **Pranay Sethi's case (Supra)** has held that 40% future prospects are to be added where the deceased was below 40 years of age and was having fixed income or was self employed. The Supreme Court in ***Hem Raj Versus Oriental Insurance Company Ltd***. 2017 DNJ 1102 has held that future prospects are to be awarded even in cases where the income is not proved but assessed by the Tribunal.

As per Supreme Court decision in **Pranay Sethi's case (supra)**, Rs.15000/- each is to be awarded for funeral expenses and loss of estate.

The Compensation is recalculated as under:

Monthly income	Rs.6000/-
40% future prospects	Rs.2400/-
Total	Rs.8400/-
½ self deduction	Rs.4200/-
Multiplier of 18 (4200 x 12 x18)	Rs.9,07,200/-
Conventional heads (Rs.15000/- each for funeral expenses and loss of estate)	Rs.30,000/-
Total	Rs. 9,37,200/-

The award dated 05.03.2012 is modified to the extent that the amount awarded of Rs.4,06,000/- is enhanced to Rs.9,37,200/-.

The claimants would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

27.04.2018
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Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No