IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

F.A.O. No.4771 of 2012 (O&M)
Date of Decision: 20.03.2018

Darshan Kaur & others

....Appellant (s)

Versus

Pawan Kumar & others

Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Puneet Jain, Advocate for
Mr. Rakesh Gupta, Advocate
for the appellant(s).

Ms. Vandana Malhotra, Advocate
for respondent no.3-Insurance Company.
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HARI PAL VERMA, J. (Oral)

The appellant-claimants have filed the present appeal seeking enhancement of compensation over and above the compensation, so granted by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as "the Tribunal") vide award dated 11.06.2012.

On a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of Karnail Singh, aged 51 years in a motor vehicular accident which took place on 02.11.2009, the Tribunal awarded a total compensation of Rs.3,41,800/-.

Not satisfied with the aforesaid award, the claimants have filed the present appeal seeking enhancement of the compensation so awarded by the Tribunal.

The accident and other liabilities are not in dispute in the present appeal. What is in dispute is the quantum of compensation awardable to the appellant-claimants.

Learned counsel for the appellant-claimants has confined his arguments to the quantum of compensation only. He has argued that the deceased Karnail Singh was an agriculturist by profession, having about 10 acres of land and was earning about Rs.20,000/- to Rs.25,000/- per month. The Tribunal has committed an error by assessing the income of deceased @ Rs.3,600/- per month, despite the fact that during the relevant period, minimum wages were higher than that. He has submitted that taking into consideration the age of the deceased, though multiplier has rightly been applied, but married daughter of the deceased has not been considered as a dependent and if the married daughter is considered as a dependent, instead of 1/3rd deduction, 1/4th deduction is required to be made towards the personal expenses of the deceased.

On the other hand, learned counsel for the respondent-Insurance Company has argued that neither the married daughter has filed the claim petition nor the present appeal has been filed on her behalf. Even otherwise, the married daughter may be a legal representative of the deceased but not a dependent. However, taking into consideration the judgment of Hon'ble the Apex Court in the case of ***National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR (Civil) 1009***, the claimants are certainly entitled for compensation under the head 'future prospects' as well as compensation under 'other conventional heads'.

I have heard learned counsel for the parties and perused the impugned award.

Admittedly, the deceased Karnail Singh had died in a motor vehicular accident which took place on 02.11.2009. The deceased was 51 years of age. Though the multiplier of '11' has rightly been applied, but in view of notification issued by the State Government, during the relevant period i.e. on the date of accident, minimum wages of even an unskilled worker were Rs.3,914/- per month and therefore, the income of the deceased is assessed @ Rs.4,000/- per month instead of Rs.3,600/-. Since the deceased Karnail Singh was 51 years of age and was not in a permanent job, the claimants are also entitled for compensation under the head 'future prospects' @ 10% in view of judgment of Hon'ble the Apex Court in the case of ***Pranay Sethi*** (*supra).*

Learned counsel for the appellants has relied upon judgment of Hon'ble the Apex Court in the case of ***Smt Manjuri Bera v. Oriental Insurance Co. Ltd.*** AIR 2007 SC 1474 to justify the fact that since the married daughter of the deceased was dependent upon him, ¼ deduction should have been made instead of 1/3rd on account of personal expenses of the deceased. However, having a glance at the aforesaid judgment, it becomes clear that the said judgment refers to claim of a married daughter, as a legal representative and not as a dependent and therefore, the said judgment has no applicability to the facts and circumstances of the present case.

Accordingly, with the assistance of both the counsel, this Court has calculated the total compensation, payable to the appellant-claimants, as under:-

S.No.	**Heads**		**Calculation (₹)**
1	**Monthly Income**		4,000.00
2	**Future prospects**	10%	400.00
3	**Total monthly income** ***(monthly income + future prospects)***		4,400.00
4.	**Annual Income**		52,800.00
5.	**Deductions towards personal expenses of deceased**	1/3	17,600.00
6.	**Annual dependency**		35,200.00
7.	**Multiplier**	11	
8.	**Total loss of dependency**		3,87,200.00
	Loss of Estate:	:	15,000.00
	Funeral expenses	:	15,000.00
	Loss of Consortium	:	40.000.00
9.	**Total amount of compensation**		4,57,200.00
10.	**Amount already awarded**		3,41,800,00
11.	**Total Enhancement**		1,15,400.00

It is further ordered that in view of judgment of Hon'ble the Apex Court in the case of ***Pranay Sethi*** (*Supra)*, this enhancement shall fetch interest @ 7.5% per annum instead of 9% per annum from the date of filing the claim petition till its realization.

Accordingly, the appeal is disposed of.

March 20, 2018 **(HARI PAL VERMA)**
AK **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No