IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1478 of 2013
Date of decision:-04.05.2018

United India Insurance Co. Ltd.

---Appellant.

Versus

Ram Raji Devi and others

---Respondents.

FAO No. 2863 of 2013

Ram Raji Devi and others

---Appellants.

Versus

Jawahar Lal and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. V. Ramswaroop, Advocate,
for the appellant in FAO No.1478 of 2013 and
for respondent No.3 in FAO No.2863 of 2013.

Mr. Ashwani Arora, Advocate,
for respondent Nos. 1 and 2 in FAO No. 1478 of 2013 and
for appellants in FAO No.2863 of 2013.

AVNEESH JHINGAN J. (Oral)

Two cross appeals have been filed by the claimants and insurer of Swaraz Mazda bearing registration No. CH01-N-8040 against the award dated 17.01.2013 passed by Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal').

The dispute raised in both the appeals is regarding quantum of compensation awarded by the Tribunal.

On 23.11.2009, a motor vehicular accident took place which proved fatal for Manoj Kumar Yadav, aged 20 years. He was going home and was a pillion rider on a scooter being driven by Rajesh Kumar Yadav. Near Small chowk of Sector 39/40, Chandigarh, a Swaraz Mazda bearing registration No. CH01-N-8040, struck against the Scooter. As a result of the impact, Manoj Kumar Yadav sustained serious injuries and he was taken to PGI, Chandigarh. He succumbed to injuries on 24.11.2009. FIR No. 508 dated 23.11.2009 was registered at Police Station, Sector 39, Chandigarh.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by legal heirs of the deceased.

The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 20 years at the time of accident. The Tribunal awarded, compensation of Rs.4,15,000/- along with interest at the rate of 8% per annum to the claimants.

In the appeal filed by the claimants, the grievance raised is that the monthly earning assessed as Rs.25,00/- is on the lower side. The contention raised is that amounts awarded under the conventional heads are meager. Whereas the grievance raised by the insurer in appeal is that 50% future prospects have wrongly been added.

It would be pertinent to note that earning of the deceased is in serious dispute. The claimants pleaded that deceased was working with Publicity Point, SCO 44, Second Floor, Sector 41-D, Chandigarh. To prove the salary of the deceased, salary certificate as Ex. P4 was produced and as per the said certificate he was earning Rs.7,100/- per month. Certificate was further substantiated by the deposition of PW3 Parveen Kumar, the employer of the deceased. On the other hand salary certificate (Mark RA) was produced by the insurer to prove that the deceased was earning Rs.2,500/- per month. The hand writing expert deposed that signatures on salary certificate Ex. P4 and the certificate produced by the insurance company were of same person. Without going into the controversy that which document is worth reliance it would be appropriate to rely upon the minimum wages prevalent at the time of the accident. The deceased was making sign boards hence, he cannot be taken as unskilled labourer therefore, he would come under the semi skilled category. At the time of accident, semi skilled workers having minimum wages of Rs.4,000/- per month. Accordingly, the monthly earning of the deceased is assessed at Rs.4,000/-.

In consonance with the decisions of the Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157, Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121*** *and* ***Hem Raj Versus Oriental Insurance Company Ltd. In civil Appeal No.19603 of 2017, decided on 22.11.2017,*** 40% future prospects are to be added. Deduction of 1/2nd towards self expenses has to be made. Multiplier of 18 is to be applied and Rs.15,000/- each is awarded for funeral expenses and loss of estate.

For the reasons mentioned above, the compensation is recalculated as under:

Sr. No.	***Heads***	***Calculations***
(i)	Salary	₹ 4,000/- per month
(ii)	40% added towards future prospects	₹ 4,000+1,600=5,600/- per month
(iii)	1/2nd deduction towards self expenses of the deceased	₹ 5,600-2,800=2,800/- per month
(iv)	Multiplier of 18 applied	₹ 2,800X12X18= 6,04,800/-
(v)	Loss of estate	₹15,000/-
(vi)	Funeral expenses	₹15,000/-
	Total Compensation Awarded (iv)+(v)+(vi)	**₹ 6,34,800/-**

The award dated 17.01.2013 is modified to the extent that the amount awarded of ₹ 4,15,000/- is enhanced to ₹ 6,34,800/-.

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

Accordingly, both the present appeals are disposed of.

04.05.2018 **(AVNEESH JHINGAN)**
Riya Grover **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*