IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212

FAO No.36 of 2014
Date of decision: 21.02.2018

Usha Arora and Another ..Appellants

Vs.

Salinder Kumar and Others ..Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Amrita Nagpal, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No. 3- Insurance Company.

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HARI PAL VERMA, J.(ORAL)

Appellants-claimants have filed the present appeal seeking enhancement of compensation awarded by Motor Accident Claim Tribunal, Karnal(for short "the Tribunal") vide award dated 01.06.2013.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the claimants, the Tribunal has awarded a total compensation of ₹7,74,403/- on account of death of Bhupinder Arora in a motor vehicular accident which took place on 08.09.2010. On that day, he (deceased) along with his son Gautam Arora was going on a motorcycle bearing registration No. HR-05S-1890 to his house in order to have lunch. When they reached near Subzi Mandi, a car bearing registration No. HR-41A-1200, came from behind. This car was being driven by respondent No. 1 in a rash and negligent manner and hit the deceased from the behind. The deceased was a pillion rider on the motor cycle which was being driven by his son Gautam Arora. Due to the impact, the deceased fell down on the road and received multiple, grievous injuries all over his body including fracture on his head. The accident took place due to rash and negligent driving of the car. Accordingly, FIR No. 837 dated 9.9.2010 was registered in Police Station City Karnal against the driver of the offending vehicle.

The deceased was self employed and was running a cycle spare parts shop near Bus Stand, Karnal and was earning monthly income of ₹15,000/-.

The accident and liability are not in dispute, but the dispute is only with regard to quantum of compensation awardable to the claimants.

Learned counsel for the appellants has argued that the deceased Bhupinder Arora was an Income Tax Payee. His date of birth is 10.11.1950 whereas the accident had taken place on 08.09.2010 and he died on 17.10.2010. Thus, on the date of accident, the deceased was 60 years of age. Therefore, the Tribunal was required to apply multiplier of 9 instead of 7, as held in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009(6) SCC 121**. Further in view of recent judgment of the Hon'ble Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009**, the deceased being self employed person, the claimants were entitled for future prospects @ 10%. The appellants are also entitled for enhancement of compensation under the conventional heads as well. As per the Income Tax Return of the deceased Bhupinder Arora, his total income including deductions was ₹ 1,22,780 per annum and therefore, the Tribunal was required to award compensation by applying multiplier 9 on this amount.

On the other hand, learned counsel for respondent No.3-Insurance Company has argued that the Tribunal has already awarded adequately and there is no scope for further enhancement in the case.

I have heard counsel for the parties.

As held in the **Pranay Sethi's** case (supra), the deceased being self employed, the claimants are entitled for future prospects @ 10% towards income of deceased. Similarly, as held in the case of the **Sarla Verma's** case (supra), the deceased being less than 60 of age, the Tribunal was required to apply multiplier of 9 instead of 7. Besides this, the appellants are also entitled for compensation under the conventional heads. Accordingly, this Court finds that the appellants are entitled for enhancement of compensation in the following manner:-

Heads		***Calculation***
GROSS ANNUAL INCOME		₹ 122, 780.00
Future prospects (%age)	10	₹ 12,278.00
TOTAL		₹ 135,058.00
Deduction toward personal expenses of deceased	1/3rd	
Annual dependency	3	₹90,038.67
Total Loss of dependency (90038.67x9)		₹ 810,348.00
Medical expenses/Transportation and attendant charges		₹191,432.00
Conventional heads:		
Loss of Estate		₹15,000.00
Funeral expenses		₹15,000.00
Loss of consortium		₹ 40,000.00
Total amount of compensation		₹1,071,780.00
Amount already awarded		₹7,74,403.00
Total enhancement		₹ 2,97,377.00

Resultantly, the claimants are entitled for enhancement of ₹ 2,97,377/-over and above amount awarded by the Tribunal and this amount shall carry interest @ 7.5% from the date of claim petition till its realisation.

With the aforesaid modification in the award, present appeal stands disposed of .

(HARI PAL VERMA)
JUDGE

February 21, 2018
Poonam (II)

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