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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. FAO No.4372 of 2013 (O&M)
Date of Decision: 05.07.2018.

Vishal and others ......Appellants
Vs
Yugraj Singh Dhindsa and others ....Respondents

2. FAO No.1849 of 2013 (O&M)

National Insurance Company Ltd. ......Appellant
Vs
Vishal and others ....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Parveen K. Kataria, Advocate
for the appellants in FAO No.4372 of 2013 (O&M) &
for respondents No.1 to 3 in FAO No.1849 of 2013 (O&M).

Mr. R.C. Gupta, Advocate
for the appellant in FAO No.1849 of 2013 (O&M) and
for respondent No.3 in FAO No.4372 of 2013 (O&M).

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RAJ MOHAN SINGH, J. (Oral)

CM No.18193-CII of 2013 in FAO No.4372 of 2013

For the reasons mentioned in the application, delay of 86 days in filing the appeal is condoned.

Application stands disposed of.

Main cases

[1]. Vide this common order FAO Nos.4372 and 1849 of 2013 (O&M) are being decided as both the appeals arise out of common award dated 08.01.2013 passed by the Motor Accident

Claims Tribunal, Amritsar (hereinafter to be referred as 'the Tribunal'). For brevity, common facts are being noticed.

[2]. The accident in question took place on 26.12.2010 in which Sania and Alka died. The Tribunal held the accident in question took place due to rash and negligent driving by driver of the offending vehicle make Fiat Lenia.

[3]. The claim petition was filed for the grant of compensation on account of death of Alka, who was teaching in an Academy. The Tribunal after assessing the material on record awarded an amount of Rs.13,59,679/- as compensation.

[4]. I have heard the submissions made by learned counsel for the parties.

[5]. The Tribunal assessed the monthly income of the deceased to be Rs.10,000/- per month. The deceased Alka was 42 years of age at the time of accident, therefore, increase on account of future prospects to the tune of 30% in view of ***National Insurance Co. Limited vs. Pranay Sethi, 2017 SCC 1270*** is to be added as she was a salaried employee. In this way the monthly income of the deceased would come out to be Rs.13,000/- per month i.e. Rs.1,56,000/- per annum.

[6]. Learned counsel for the parties are at variance in respect of deduction as per family composition of the deceased.

Even if, the deduction to the tune of 1/3rd is applied to the annual income of the deceased, the same would come out to be Rs.1,04,000/-.

[7]. The deceased was aged about 42 years at the time of accident. In view of ratio laid down in ***Sarla Verma vs. Delhi Transportation Corporation, 2009 ACJ 1298 (SC)*** on the basis of age of the deceased, multiplier of 14 is to be applied. In this way assessment towards dependency comes out to be Rs.14,56,000/- (1,04,000 x 14). An Additional amount of Rs.70,000/- can be assessed towards loss of estate, loss of consortium and funeral expenses in view of ***National Insurance Co. Limited vs. Pranay Sethi,'s*** case (supra). In this way, total amount of compensation comes out to be Rs.15,26,000/- (14,56,000 + 70,000).

[8]. The Tribunal has awarded an amount of Rs.87,679/- towards medical expenses. This Court is of the opinion that the award is based on material produced by the claimant. The finding qua the aforesaid head is affirmed. In this way, total amount of compensation comes out to be Rs.16,13,679/- (15,26,000 + 87,679).

[9]. The enhanced amount i.e. Rs.2,54,000/- (16,13,679 – 13,59,679) would carry interest @ 7.5% per annum from the

date of filing of the claim petition till final realization of the amount. The Tribunal has already awarded right of recovery to the Insurance Company, the same will remain in force.

[10]. In view of aforesaid modification, both the appeals are accordingly disposed of.

July 05, 2018 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

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