IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 406 of 2014 (O&M)
Date of Decision:- 02.02.2018

Sunita & Ors. ....Appellants

Versus

Rohan Singh & Ors. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. R.B. Gupta, Advocate, for the appellants.

Mr. N.K. Kapoor, Advocate, for respondent No.3.

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Faridabad, (for short, 'the Tribunal') vide award dated 10.07.2013.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short,'the Act'), legal heirs of deceased – Naresh, aged 25 years were awarded a sum of Rs.6,68,000/- along with interest @7.5% per annum.

Bare facts necessary for adjudication of the present appeal are that on 02.06.2012 Naresh was going on his motor-cycle bearing registration No. HR-29P-8124. The motor-cycle was hit by a rashly and negligently driven Maruti Zen Car bearing registration No. HR-51Q-8991. As a result of the injuries suffered in the accident Naresh lost his life on his way to B.K. Hospital Faridabad. FIR No. 73 dated 02.06.2012 was registered at Police Station Chhainsa.

I have heard learned counsel for the parties, perused the paper-book and the record.

The grievance raised in the appeal is that the Tribunal assessed the monthly earning of the deceased as Rs.4500/- per month whereas minimum wages for unskilled worker prevalent in the State of Haryana at the time of accident was Rs.4847/-. The contention raised is that no future prospects has been awarded. The amount awarded of Rs.20,000/- under the conventional heads is on the lower side.

No doubt the claimants failed to prove the monthly earning of the deceased. In such circumstances the safest yardstick was to rely upon the minimum wages prevalent at that time of accident in the State of Haryana. The monthly earning of the deceased is taken as Rs.4850/- The deceased was 25 years of age and survived by three dependents. 1/3rd deduction for self-expenses is to be made and multiplier of 18 is to be applied. 40% of future prospects are to be awarded. Rs.70,000/- has to be awarded under conventional heads (i.e. Rs 15,000/- for funeral expenses, 15,000/- for loss of estate and Rs.40,000/- for loss of consortium). Reliance is placed on the decisions of Hon'ble Apex Court in ***National Insurance Co. Ltd. Vs. Parney Sethi, SLP (Civil) 25590 of 2014,*** decided on 31.10.2017 and in case of ***Hem Raj Vs. Oriental Insurance Company Ltd, in Civil Appal No. 19603 of 2017, decided on 22.11.2017.***

As per the decision in ***Hem Raj Vs. Oriental Insurance Company Ltd,*** (Supra) the future prospects are also to be awarded in cases where the income is assessed relying upon the minimum wages.

As per the above discussion the compensation is re-calculated as under:-

Annual earning 4850 x 12	=	Rs.58,200/-
1/3rd deduction for self-expenses	=	Rs.19,400/-
Total	=	Rs.38,800/-
40% future prospects	=	Rs.15,520/-
Total	=	Rs.54,320/-
Multiplier of 18 (54320 x 18)	=	Rs.9,77,760/-
Funeral expenses	=	Rs.15,000/-
Loss of estate	=	Rs.15,000/-
Loss of consortium	=	Rs.40,000/-
Total	=	Rs.10,47,760/-

The award dated 10.07.2013 is modified to the extent that the amount awarded of Rs.6,68,000/- awarded by the Tribunal is enhanced to Rs.10,47,760/-.

The claimants would be entitled to the enhanced amount along with interest as awarded by the Tribunal from the date of filing of the claim petition till realisation.

The appeal is partly allowed in the aforesaid terms.

February 02, 2018 **(AVNEESH JHINGAN)**
tripti **JUDGE**

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