IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 219 FAO-4749-2013

Date of decision : 05.12.2018

Daya Shankar ..... Appellant

VERSUS

HRTC and another ..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Anuj Sharma, Advocate, for the appellant.

Mr. Neeraj Khanna, Advocate, for
Mr. Ravinder Arora, Advocate, for respondent No. 1.

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DEEPAK SIBAL, J. (ORAL)

Through the instant appeal, the appellant/claimant seeks enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (for short, the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 13.02.2010 at about 7:10 AM Manoj Kumar was going on his bicycle from his residence towards Industrial Area, Mohali. When he reached T-point of Sector 45/50 a bus bearing Registration No. HP-72-0595 (for short, the offending vehicle) hit his bicycle from behind as a result of which he suffered head injuries and died. A FIR was lodged against the driver of the offending vehicle. The appellant also filed a claim petition under Section 166 of the Motor Vehicles Act, 1988. After sifting the evidence led by the parties, the Tribunal assessed the payable compensation the enhancement of which is sought through the present appeal.

Learned counsel for the appellant submits that it was proved before the Tribunal that the deceased was working as an auto mechanic and therefore, even if the minimum wages at the relevant time, as applicable to UT, Chandigarh are considered, the income of the deceased should have been assessed at ₹6,000/- per month instead of ₹4,500/-. Relying upon the recent pronouncement by a Constitution Bench of the Hon'ble Supreme Court in "*National Insurance Company Limited vs. Pranay Sethi and others*" (2017) 16 SCC 680, learned counsel for the appellant further submits that as the deceased was 20 years of age, while assessing the payable compensation to the appellant, "future prospects" @ 40% were also liable to be added to the assessed income of the deceased. It was still further submitted that a cumulative sum of ₹30,000/- under the heads of "loss of estate" and "funeral expenses" instead of 10,000/- should also have been awarded by the Tribunal.

Learned counsel for respondent No. 1 very fairly submits that in view of *Pranay Sethi's* case (supra) the appellant is entitled to "future prospects" @ 40% as also to a cumulative sum of ₹30,000/- instead of ₹10,000/- granted by the Tribunal under the heads of "loss of estate" and "funeral expenses".

So far as the assessment of the income of the deceased is concerned, since it was proved before the Tribunal that at the time of his death in the year 2010 the deceased was working as an auto mechanic in Chandigarh, after applying the minimum wages for a skilled worker as per the Minimum Wages Act, 1948 for the year 2010 in UT, Chandigarh, which were ₹201.46 per day, the income of the deceased is assessed @ ₹6,000/- per month.

In view of the above, the impugned award of the Tribunal is modified to the extent that the income of the deceased is assessed at ₹6,000/- per month and that the appellant/claimant is held entitled to compensation after adding "future prospects" @ 40% to the assessed income of the deceased. He is also held entitled to a cumulative sum of ₹30,000/- under the heads of "loss of estate" and "funeral expenses".

On the enhanced amount, the appellant/claimant is further held entitled to interest @ 6.5% per annum from the date of filing of the claim petition till its realization.

No other point was urged.

The appeal is allowed in the above terms.

05.12.2018 [ DEEPAK SIBAL ]
shamsher JUDGE

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