IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1509-2016 (O&M)
Date of Decision: 27.08.2018

Neetu Devi @ Sunita Devi & others --Appellants

Versus

Lakhwinder Singh & others --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

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

Mr. Arvinder Singh, Advocate for respondent no.1.

Mr. Ajay Singla, Advocate for respondent no.3.

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TEJINDER SINGH DHINDSA.J (Oral)

This is claimants' appeal seeking enhancement of compensation.

Brief facts are that a claim petition was filed under Section 166 of the Motor Vehicle Act seeking compensation to the tune of Rs.50 lacs on account of death of Krishan Kumar Singh in an accident that took place on 16.3.2014. Claimants were the widow, two minor sons and one minor daughter of deceased.

In the award dated 2.7.2015 passed by the M.A.C.T, Patiala, a compensation amount of Rs.11,43,000/- has been awarded. Further directions were issued to pay the amount of compensation to the claimants within two months from the date of passing of the award failing which claimants were held entitled to interest @ 6% per annum on the awarded amount till actual realization. Liability to pay the compensation amount was fastened jointly and severally upon the owner/driver of the offending vehicle as also the Insurance Company.

Since the only issue involved in the instant appeal is with regard to quantum of compensation, I would advert to findings recorded by the Tribunal in relation to Issue No.2, which is reproduced hereunder:-

> *"2. Whether the claimants/petitioners are entitled to recover any amount of compensation, if so, from whom?OPP"*

Perusal of the impugned award would reveal that age of the deceased has been taken as 27 years, which found a mention in the Post Mortem Report Ex. P-1 and which document had been relied upon by the claimants themselves. Even though, the claimants had asserted that deceased was working in Laxmi Steel Mill and was earning Rs.15,000/- per month at the time of accident, yet, no evidence had been adduced on record to substantiate such claim and accordingly the Tribunal has by way of approximation assessed the monthly income of the deceased as Rs.6,000/- per month in relation to the date of the accident. Even counsel for appellants/claimants does not dispute such assessment of monthly income.

A deduction of 1/3rd has been made by the Tribunal for personal and living expenses of the deceased keeping in view the number of dependent family members and as per the judgement of the Apex Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) R.C.R (Civil), 77***. The same does not call for any interference. Multiplier of 17 has correctly been applied to the multiplicand as per parameters laid down in ***Smt. Sarla Verma's*** case (supra).

That apart, under the conventional heads, an amount of Rs.25,000/- has been awarded towards funeral expenses, Rs.1 lac for loss of consortium and Rs.1 lac towards loss of love and affection. The total compensation amount, as such, has been computed to be Rs.11,43,000/-.

Having heard counsel for the parties at length, this Court is of the considered view that the compensation amount awarded as per award dated 2.7.2015 would require to be revisited in the light of the guidelines issued by the Apex Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) R.C.R (Civil), 77*** and ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) R.C.R (Civil), 1009.***

The Tribunal has completely overlooked the aspect as regards increase in income towards future prospects. Since it was the case of the appellants/claimants themselves that the deceased was self employed and his age on the date of accident has been taken to be 27 years, an increase in income @ 40% towards future prospects is awarded as per dictum laid down in ***Pranay Sethi's*** case (supra).

Counsel for the appellants concedes that an amount of Rs.70,000/- ought to have been awarded under the conventional heads i.e. funeral expenses, loss of estate and loss of consortium as opposed to Rs.2,25,000/- that has been awarded. It is, accordingly, directed that the appellants/claimants would be entitled to a sum of Rs.70,000/- in all under the conventional heads.

In view of the discussion above, the compensation amount is reassessed and calculated as under:-

Sr. No.	Head	Calculation
1.	Monthly Income (as assessed by the Tribunal)	6,000/-
2.	40% increase in income towards future prospects	6,000+40%=8,400/-
3.	1/3rd deductions towards personal expenses of the deceased.	8,400 ÷ 3 = 2800/- 8,400-2800 = 5,600/-
4.	Compensation after applying multiplier of 17. (keeping in view the age of the deceased as 27 years.)	5,600x12 = 67,200/- 67,200x17 = 11,42,400/-
5.	Conventional heads (loss of estate, loss of consortium, funeral expenses etc.)	70,000/-
6.	Total	11,42,400+70,000=Rs.12,12,400/-

The afore-calculated enhanced compensation amount be released in favour of appellant/claimant no.1 i.e. widow of the deceased and mother/natural guardian of appellants no.2 to 4 along with interest @ 6% per annum from the date of filing of the instant appeal till actual realization.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

27.08.2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No