IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

F.A.O. No.4915 of 2013 (O&M)
Date of Decision: 19.02.2018

Ramniwas

....Appellant (s)

Versus

Sunil & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Harish Nain, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate and
Mr. Sukhdarshan Singh, Advocate
for respondent no.4.

Mr. R.K. Singla, AAG, Haryana.
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HARI PAL VERMA, J. (Oral)

Appellant-claimant has filed the present appeal seeking enhancement of compensation over and above the amount, as awarded by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as "the Tribunal") vide award dated 03.07.2013.

Brief facts of the case are that on 18.06.2012 at about 10.15 A.M., deceased Jaydeep @ Shashi and Narinder (since deceased) were going to Jind from Village Ramgarh, on a motorcycle bearing registration No.HR-21C-1691. When they reached near Hanuman Mandir of Village Ghimana, the offending bus bearing registration No.HR-61A-5325, which was being driven by Sunil respondent no.1-driver in a rash and negligent manner at a high speed, came from the opposite side and struck against their motorcycle. As a result thereof, both of them i.e. Jaydeep @ Shashi and Narinder suffered multiple, grievous and fatal injuries, which resulted into their deaths at the spot. Accordingly, an FIR No.122 dated 18.06.2012 under Sections 279 and 304-A IPC was registered at Police Station Sadar Jind.

The claimant-Ramniwas, who is father of deceased Jaydeep @ Shashi, filed a claim petition under Section 163-A of the Motor Vehicles Act, 1988 with the averments that the deceased Jaydeep @ Shashi was aged about 17 years and was engaged in agricultural work along with his father and was earning Rs.3,250/- per month.

The Tribunal while applying the multiplier of '17' and assessing the annual income of the deceased at Rs.15,000/-, apart from granting Rs.2,000/- towards 'funeral expenses' and Rs.2,500/- towards 'loss of estate', held the claimant entitled for a total sum of Rs.2,59,500/- along with costs and interest @ 9% per annum.

Not satisfied with the aforesaid amount of compensation, the appellant-claimant has preferred the present appeal seeking enhancement in the amount of compensation.

Learned counsel for the appellant has argued that the impugned award needs modification and the amount of compensation is required to be enhanced. He has relied upon a judgment of Hon'ble the Apex Court in the case of ***Kishan Gopal Vs. Lala 2013(4) RCR (Civil) 276*** to contend that minimum notional income of the deceased is required to be taken as more than Rs.30,000/- per year. In the case of ***Kishan Gopal*** (supra), the deceased was a child of 10 years of age, whereas in the case in hand, the deceased Jaydeep was 17 years of age and was a student of B.A. IInd Year and had a bright future ahead. Learned counsel has prepared a chart seeking enhancement in the amount of compensation so granted, which has been supplied to learned counsel for the insurance company.

On the other hand, Mr. Vinod Gupta, Advocate assisted by Mr. Sukhdarshan Singh, Advocate, appearing the respondent-insurance company, has argued that taking into consideration the age and income of the deceased, the Tribunal has already awarded adequate compensation. However, considering the age of the deceased and his family background, the insurance company is ready to make the payment of enhanced amount of compensation, as per the chart so prepared by learned counsel for the appellant, but without any interest thereon.

I have heard learned counsel for the parties and perused the impugned award.

In the peculiar facts and circumstances of the present case, this Court finds that the impugned award is required to be modified to the extent that the appellant-claimant shall be entitled for an enhanced amount of Rs.1,61,064/- over and above the amount of compensation already granted to him. However, this amount shall not carry any interest, as the insurance company has assured to make the entire payment within a month.

Accordingly, the present appeal is allowed and the impugned award is modified in the following manner:-

Calculation	**Total**
Income	3250
Deduction (1/3rd)	1083
Net Income	3250-1083=2167
Multiplier	16
Total	2167x12x16=416064
Conventional Heads	4500
Total compensation	416064+4500=420564
Enhanced compensation	420564-259500=161064

It is made clear that the appellant-claimant shall not be entitled for any interest over the enhanced amount of compensation. However, the insurance company shall make the entire payment within a month.

February 19, 2018 **(HARI PAL VERMA)**
AK **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No