IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 7500 of 2014 (O&M)

Date of Decision: 10.12.2018.

Smt. Gomati Devi and others

.......Appellants

Versus

Sohal Lal and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arvind Bansal, Advocate
for the appellants.

Mr. Gaurav Jindal, Advocate
for respondents No. 1 and 2.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The award dated 26.11.2013 passed by the Motor Accident Claims Tribunal, Kaithal (for short 'the Tribunal') has been assailed by legal heirs of Hari Pal, seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The appellants are widow and two sons of Hari Pal. The driver of Tractor Trolley bearing registration No. HR08-L-6595 (hereinafter referred to as 'offending vehicle'), owner and insurer (i.e. United India Insurance Company) of the offending vehicle have been arrayed as respondents No. 1 to 3 respectively in the appeal.

The facts emanating from the record are that on 18.4.2012 Hari Pal was driving his motor cycle bearing registration No. HR08-J-7154. When he reached near Aggarwal Dharamshala, in the area of Dhand, his motor cycle was hit by a rashly and negligent driven offending vehicle. As a result of the impact, he sustained serious injuries, he was admitted in Anand Hospital, Kurukshetra from where he was referred to PGI, Chandigarh. He lost his life on 21.4.2012. FIR No. 41 was registerred at Police Station Dhand.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation. The Tribunal awarded a sum of ₹8,78,000/- along with interest at the rate of 7.5% per annum. The amount awarded included ₹10,000/- for loss of consortium, ₹ 15,000/-towards last rites and ₹25,000/- for medical treatment.

In the claim petition, the claimants pleaded that the deceased was working as Assistant foreman with Uttar Haryana Bijli Vitran Nigam, Dhand. He was 57 years old and was about to retire in few months.

The Tribunal after considering the facts of the case, assessed the monthly earning of the deceased as ₹17,350/-, ½ deduction for self expenses was made and multiplier of 8 was applied.

Heard learned counsel for the parties, perused the paper book and relevant record.

Learned counsel for the appellants argued that no future propects have been awarded and the Tribunal erred in applying the multipler of 8 instead of 9. He further argued that deduction for self-expenses should be 1/3rd and the amount awarded under conventional heads is on lower side. No other issue was raised.

Learned counsel for the insurer defended the award and resisted any further enhancement.

The contention raised by learned counsel for the appellant deserves acceptance, in view of the decision of Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157*** . Considering the fact that the deceased was 57 years and was having a permanent job, 15% future prospects are awarded. The claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- is awarded to widow for loss of consortium.

The deceased was 57 years old and in-consonance with the decision of the Surpeme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21***, multipler of 9 is applied. Since, the deceased was surived by widow and two sons, hence, $1/3^{rd}$ deduction for self expenses is made.

There is no dispute between the parties on monthly income.

In view of the above discussion, the compensation is re-calculated as under:

Sr. No.	Paritulars	Amount awrded
1.	Monthly income	₹17350/-
2.	15% Future Prospects	₹ 2603/- ₹ 19953/-
3.	1/3rd deduction for self expenses (19953-6651=13302)	₹6651/-
4.	Applying multiplier of 9 (13302x12x9)	₹14,36,616/-
5.	Conventional heads (₹15000/-each for loss of estate and funeral expenses and ₹40,000/- for loss of consortium) Rs.25,000 Medical expenses already awarded	₹70,000/- Rs. 25,000/-
6.	Total	₹15,31,660/-

The award dated 26.11.2013 is modified to the extent that amount awarded of ₹8,78,000/- by the Tribunal is enhanced to ₹15,31,660/-.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is allowed.

(AVNEESH JHINGAN)
JUDGE

10.12.2018
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Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No