IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

F.A.O. No.7652 of 2014
Date of Decision: 10.01.2018

Raj Kumari & others

....Appellant (s)

Versus

Harjeet Singh & others

...Respondent(s)

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

Present:- Mr. Rajeev Dev Sharma, Advocate
for the appellants.

Mr. B.S. Randhawa, Advocate
for respondent no.2.

Mr. Lalit Garg, Advocate
for respondent no.3.
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HARI PAL VERMA, J. (Oral)

Claimants have filed the present appeal seeking modification of award dated 13.05.2014 passed by Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as "the Tribunal").

Claimants are the legal heirs of deceased Sham Lal who died in a motor vehicular accident on 14.06.2011. The deceased was 36 years of age as on the date of accident and being in business was earning Rs.20,000/- per month. The claimants were dependent upon the income of the deceased.

Vide award dated 13.05.2014 the Tribunal while considering the age of the deceased as 36 years and taking into account the fact that the claimants, who are wife, minor children and mother of the deceased, were dependent solely upon him, assessed his monthly income at Rs.6,000/-. However, after deducting 1/4th of the income of the deceased, the annual dependency of the claimants was assessed at Rs.54,000/-. The Tribunal by applying the multiplier of 15, awarded total compensation of Rs.8,60,000/-, which included Rs.40,000/- towards love and affection and Rs.10,000/- towards funeral expenses.

Dissatisfied with the aforesaid amount of compensation, the claimants have preferred the present appeal.

Learned counsel for the appellants has argued that the Tribunal has wrongly assessed the income of the deceased. He was a businessman earning Rs.20,000/- per month, but the Tribunal has awarded the compensation on lower side. No amount of compensation was awarded towards 'future prospects'. In support of his claim towards 'future prospects' he has relied upon judgment of Hon'ble the Apex Court in the case of ***National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR (Civil) 1009***. He further submits that by calculating the income of the deceased at Rs.6,000/- after adding 40% towards 'future prospects', the total income of the deceased comes to Rs.8,400/- per month. Thereafter, after making deduction of 1/4th of the total income, the dependency comes to Rs.6,300/- per month and if multiplier of 15 is applied, the total dependency comes to Rs.11,34,000/- (6300x12x15). He further submits that an amount of Rs.70,000/- is also required to be added in 'general head', which includes

Rs.40,000/- towards 'consortium', Rs.15,000/- towards 'funeral expenses' and Rs.15,000/- towards 'loss of estate'. Therefore, the total amount payable to the claimants is Rs.12,04,000/-. He states that the claimants have already been granted an amount of Rs.8,60,000/- and thus, an enhancement of Rs.3,44,000/- is required to be made in the awarded amount of compensation.

On the other hand, though learned counsel for the respondent-insurance company does not dispute the judgment of Hon'ble the Apex Court in the case of ***National Insurance Co. Ltd vs. Pranay Sethi*** (*Supra)*, however, he submits that considering the admissible claim of the claimants, the Tribunal has already awarded the adequate compensation.

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

In view of the law laid down by Hon'ble the Apex Court in the case of ***National Insurance Co. Ltd vs. Pranay Sethi*** (*Supra)*, this Court feels that an enhancement of 40% towards 'future prospects' is required to be made in the income of the deceased. Therefore, by adding 40% to the income of the deceased i.e. Rs.6,000/-, as assessed by the Tribunal, his monthly income comes to Rs.8,400/-. In this manner, after making 1/4th deduction of the total income, the total dependency comes to Rs.11,34,000/- by applying the multiplier of 15. Further, by adding an amount of Rs.70,000/- in 'General Head', which shall include Rs.40,000/- towards 'consortium', Rs.15,000/- towards 'funeral expenses' and Rs.15,000/- towards 'loss of estate', the total awardable amount will come to Rs.12,04,000/-. Since the claimants have already been disbursed an amount of Rs.8,60,000/-, the balance amount of Rs.3,44,000/- is further required to be paid to the claimants.

Accordingly, the present appeal is allowed and the impugned award is modified to the extent that the claimants shall be entitled to an amount of Rs.3,44,000/- over and above the amount already awarded to them by the Tribunal. It is further ordered that this enhancement shall fetch interest @ 7.5% per annum from the date of filing the claim petition till its realization.

January 18, 2018 **(HARI PAL VERMA)**
AK **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No