IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 77 of 2014 (O&M)

Date of Decision: 23.03.2018

Smt. Namarta Thakkar and others

.......Appellants

Versus

Labh Singh and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Arora, Advocate
for the appellants.

None for respondents inspite of service.

<u>AVNEESH JHINGAN, J.</u>

The appeal arises from award dated 25.04.2013 passed by the Motor Accidents Claims Tribunal, Chandigarh (for short 'the Tribunal').

On 7.3.2010 a motor vehicular accident took place which proved fatal for Gaurav Thakkar, aged 29 years. He was driving car bearing registration No.PB-22-C-6060 and Vishal was sitting on front seat. At about 9:00/9:30 p.m. a tractor trolley bearing registration No.PB-30-E-9711 loaded with sand struck against the car. The trolley was being driven in rash and negligent manner and it came from the opposite side. As a result of the accident Gaurav Thakkar received serious injuries. He was taken to Apollo Hospital, Ludhiana, where he succumbed to injuries on 8.3.2010.

A Claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the legal heirs of the deceased. The Tribunal awarded a sum of Rs.16,01,200/- along with interest at the rate of 7% per annum.

The appeal has been filed for enhancement of compensation. The deceased was the Proprietor of M/s Thakkar Opticals, Fazilka. He was an income tax assessee. His income tax return was exhibited before the Tribunal. The Tribunal relying upon the return assessed the annual earning of deceased as Rs.96,000/-. Multiplier of 17 was applied and deduction of 1/4th for self expenses was made. The multiplier and deduction are in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transporation Corporation and another (2009)6 SCC 121*** . 30% future prospects were added whereas as per the decision of Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and others*** **2017 AIR (SC) 5157** 40% future prospects should have been added. Rs.5000/- each was awarded for funeral expenses and loss of consortium, as per decision of the Supreme Court in case of **Pranay Sethi's case (supra)** an amount of Rs.70,000/- is to be awarded under conventional heads.

Learned counsel for the appellants argued that the Tribunal while assessing the income of the deceased has not considered the fact that the deceased was owner of agricultural land and Jamabandi to that effect was produced. Contention is that his agricultural income should have been considered. A perusal of the Jamabandi shows that he was not the owner rather the land was owned by his father. Another piece of land owned by Amrit Pal was taken on rent. No proof has been produced either before the Tribunal or before this Court to show that he had some agricultural income. Firstly he never owned this land and secondly in the income tax return filed, no income from agricultural land was shown. No doubt that agricultural income is exempted from income tax, but the same is added to the income for the purpose of determining the rate of tax.

In such circumstance, it would not be possible to go beyond the income shown in income tax return, which is the safest yardstick to be followed. The contention that some compensation for supervision of land is to be awarded cannot be accepted in the light of the fact that the land was owned by father of the deceased and it remained as it is.

The compensation is recalculated as below.

Annual Income	Rs.96000/-
40% future projects	Rs.38,400/- Rs.1,34,400/-
1/4th deduction for self expenses	Rs.33,600/-
Multiplier of 17	100800 x 17 Rs.17,13,600/-
Conventional heads (15,000/-for loss of estate, 15000/- for funeral expenses 40,000/- for loss of consortium)	Rs.70,000/-
Total:	Rs.17,83,600/-

The award dated 25.04.2013 is modified to the extent that the amount awarded of Rs.16,01,200/- is enhanced to Rs.17,83,600/-.

The appellants would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeals are partly allowed in the above said terms.

(AVNEESH JHINGAN)
JUDGE

23.03.2018
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Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No