IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7959 of 2014 (O&M)
Date of decision: 29.05.2018

Santosh and others .... Appellants

Versus

Pappu Ram and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Dheeraj Narula, Advocate
for the appellants.

Mr. Rajbir Randhawa, Advocate
for respondent No.2.

Mr.Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The present appeal has been filed against award dated 16.08.2013 passed by Motor Accidents Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal').

The claimants have filed the appeal for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') on account of death of Krishan Kumar @ Kalu.

A motor vehicular accident took place on 07.02.2012. Krishan Kumar @ Kalu was going along with his nephew. At about 9.30-9.45 p.m. opposite Anaj Mandi, Krishan Kumar @ Kalu was struck by a tractor trolley bearing registration No.HR-24-P/6349 (for short, 'the offending vehicle'). As a result of the accident, he fell down and three tyres of the tractor trolley crossed over him. He was taken to General Hospital, Sirsa but he succumbed to the injuries on his way. FIR No.28 dated 08.02.2012 was registered.

A claim petition was filed by widow and three minor children of the deceased. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was taken as 37 years as per post mortem report, 1/4th deduction was made for self expenses and multiplier of 15 was applied. The Tribunal awarded a sum of Rs.7,07,000/-along with interest @ 7.5% per annum. The amount awarded included Rs.25,000/- for loss of love and affection, Rs.2,000/-as funeral expenses, Rs.2500/- each for loss of estate and transportation. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

I have heard learned counsel for the parties and perused paper book and relevant documents produced by them.

Learned counsel for the appellants contended that the monthly income of the deceased assessed as Rs.5,000/- is on the lower side, as it was proved on record that he was taking the land on lease for cultivation. His grievance is that no future prospects have been awarded and the amounts awarded under the various conventional heads are on the lower side.

Learned counsel for the insurer of the offending vehicle defended the award and resisted any enhancement.

The claimants were able to prove by the deposition of Sain Kumar-PW3 that the deceased was taking his land on lease for cultivation.

Albeit, they failed to prove earning of deceased, it would not be appropriate to equate the deceased with an unskilled labourer. The minimum wages are just a yardstick to be considered for assessing the earning of the deceased. In the facts of the present case, the earning of the deceased is assessed as Rs.5500/- per month.

Having due regard to the decisions of the Supreme Court in cases of ***National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157*** 40% future prospects are to be added. The claimants would be entitled to Rs.70,000/- under conventional heads i.e.Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium.

There is no dispute with regard to 1/4th deduction made for self expenses and multiplier of 15 applied. Since the quantum of compensation is being revisited, no amount can be awarded for loss of love and affection.

The compensation is recalculated as under :-

Monthly income	Rs.5500/-
40% future prospects	Rs.2200/-
Total income	Rs.7700/-
1/4th deduction for self expenses	Rs.1925 /-
Dependency	Rs.5775/-
Applying multiplier of 15	Rs.10,39,500/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.11,09,500/-

The award dated 16.08.2013 is modified to the extent that the amount awarded by the Tribunal of Rs.7,07,000/- is enhanced to

Rs.11,09,500/-.

The claimants would be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

29.05.2018
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1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : Yes