IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6442 of 2015 (O&M)
Date of decision: 07.05.2018

Krishna Devi and others .... Appellants

Versus

Raj Kumar and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Sagar Aggarwal, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

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Avneesh Jhingan, J.

The present appeal has been filed against award dated 15.01.2015 passed by Motor Accidents Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal').

A motor vehicular accident took place on 08.02.2014. Tara Chand, aged 43 years, was going from his village Jathalana to Kurukshetra on his motorcycle bearing registration No.HR-02W-0458, near village Bodla turn on Ladwa-Pipli turn, the motorcycle was struck by a rashly and negligently driven car bearing registration No.HR-07R-9942. As a result of the impact, Tara Chand suffered multiple and serious injuries. He was taken to LNJP Hospital, Kurukshetra. From there, he was shifted to GMCH, Sector-32, Chandigarh. He succumbed to injuries on 03.03.2014.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow, three minor children and mother of the deceased.

The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 43 years. 1/4th deduction for self expenses was made. The Tribunal awarded a sum of Rs.24,06,130/- along with interest @ 7.5% per annum. The amount awarded included Rs.2,25,000/- under the conventional heads including love and affection and an amount of Rs.1,08,630/- for medical expenses.

The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellants argued that the Tribunal erred in assessing the earning of the deceased as Rs.1,50,000/- whereas as per the income tax return for assessment year 2012-13, the income of Rs.1,78,350/- was shown.

Learned counsel for the insurer argued that 30% future prospects have wrongly been added and the amounts awarded under the conventional heads should be restricted to Rs.70,000/-.

The Tribunal erred in ignoring the material produced before it regarding earning of the deceased. There was a return for assessment year 2012-13 showing the gross income of Rs.1,78,350/-. From the perusal of the return, since computation chart is not attached, it is not clear that the gross income shown is inclusive of income from other sources and house property etc. or not. Be that as it may, the salary of the deceased was proved by Ex.P11 certificate issued by M/s LRB Wood Industry. The deceased was working as an electrician with the said firm. Taking into consideration the salary certificate, the annual income of the deceased comes to Rs.1,74,000/-which was below the taxable limit in the said year. The compensation would be calculated on the said amount.

Since the quantum of compensation is being revisited, the same would be in consonance with the decision of the Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157.*** 25% future prospects would be added, since the deceased was in the age group of 40 to 50. The appellants would be entitled to Rs.70,000/- under conventional heads and no amount can be awarded for loss of love and affection.

In consonance with the decision of ***Smt. Sarla Verma and Pranay Sethi's cases (supra),*** 1/4th deduction is to be made for self expenses and multiplier of 14 is to be applied.

The compensation is recalculated as under :-

Annual income	Rs.1,74,000/-
25% future prospects	Rs.43,500/-
Total income	Rs.2,17,500/-
1/4th deduction for self expenses	Rs.54,375/-
Dependency	Rs.1,63,125 /-
Applying multiplier of 14	Rs.22,83,750/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Medical expenses	Rs.1,08,630/-
Total	Rs.24,62,380/-

The award dated 15.01.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.24,06,130/-is enhanced to Rs.24,62,380/-.

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

07.05.2018
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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No