IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

F.A.O. No.8651 of 2014 (O&M)
Date of Decision: 12.01.2018

Angrejo & others

....Appellant (s)

Versus

Darban Singh & others

...Respondent(s)

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

Present:- Mr. R.S. Mamli, Advocate
for the appellants.

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

Claimants have filed the present appeal seeking enhancement of compensation granted by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as "the Tribunal") vide award dated 09.12.2013.

Claimants had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Gurnam Singh, husband of appellant no.1, father of appellants no.2 to 5 and the son of appellant no.6. Gurnam Singh had died in a motor vehicular accident which took place on 25.02.2012. The deceased was 44 years of age as on the date of accident and was working as a Mason, earning

Rs.15,000/- per month. The claimants were dependent upon the income of the deceased.

The Tribunal vide award dated 09.12.2013, while considering the age of the deceased as 44 years and taking into account his monthly income as Rs.5,000/- per month, having six dependent family members and while deducting 1/4th amount towards his self-expenses out of the annual income of Rs.60,000/-, the annual dependency of the claimants was assessed at Rs.45,000/-. Since the deceased was 44 year of age, the multiplier of 14 was applied and the amount of compensation was assessed at Rs.6,30,000/- The Tribunal also added Rs.10,000/- towards 'consortium', Rs.5,000/- towards 'funeral expenses' and Rs.5,000/- towards 'loss of estate'. Thus, the total amount of compensation was assessed at Rs.6,50,000/-.

Not satisfied 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. The deceased who was 44 years of age was earning Rs.14,000/- to Rs.15,000/- per month. Therefore, multiplier 15 should have been applied and dependency should have been 1/7th, 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***.

On the other hand, learned counsel for the respondent-insurance company submits that considering the admissible claim of the claimants, the Tribunal has already awarded the adequate compensation and no further enhancement is warranted. However, in view of judgment of Hon'ble the Apex Court in ***Pranay Sethi's*** (*Supra)* and considering the monthly income of the deceased as Rs.5,000/- and his age, the compensation is required to be assessed by adding 25% towards 'future prospects'. He has submitted a revised chart of the calculation, as per which, the monthly income of the deceased was taken as Rs.5,000/- and by adding 25% towards 'future prospects', it comes to Rs.6,250/- (5000+1250=6250) per month. After making 1/4th (Rs.1562) deduction of the monthly income, the net monthly income has been assessed at Rs.4,688/- (6250-1562=4688). By applying the multiplier of 14 the total dependency comes to Rs.7,87,584/- (4688x12x14). Apart from the aforesaid amount so assessed, if an amount of Rs.70,000/- is further added under the '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 amount of compensation payable to the claimants will come to Rs.8,57,584/-. He states that since the claimants have already been granted an amount of Rs.6,50,000/-, an enhancement of Rs.2,07,584/- is required to be made in the awarded amount of compensation.

Learned counsel for the appellants has accepted the proposal made on behalf of the respondent-insurance company.

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

Admittedly, an amount of Rs.6,50,000/- has already been disbursed to the claimants. Considering the fact that the appellants have duly accepted the aforesaid proposal made on behalf of the respondent-insurance company, the impugned award is modified to the extent that the claimants shall be entitled to an amount of Rs.2,07,584/- over and above the amount already awarded to them by the Tribunal. It is further ordered that this enhancement shall carry interest @ 7.5% per annum from the date of filing the claim petition till its realization.

The appeal shall stand disposed of accordingly.

January 12, 2018 **(HARI PAL VERMA)**
AK **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No