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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

FAO No. 9200 of 2014
Date of Decision: 16.03.2018

Gurdayal Singh and Another

..... Appellants

Versus

Attar Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Nipun Vashist, Advocate for the appellants.

Mr. Rohit Goswami, Advocate for the respondent No. 3.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from an award dated 30.04.2014 passed by Motor Accidents Claims Tribunal, Rewari (for short 'the Tribunal').

An accident took place on 12.08.2012 at about 9/9.30 p.m. The accident proved fatal for Himmat, aged 25 years. He was going from his house, when he reached near Naiwali Chowk, Rewari, he was hit by a rashly and negligently driven vehicle bearing registration No. RJ-18PA-4496. He received injuries and was taken to Govt. Hospital, Rewari but he died on the way. FIR No. 152 dated 13.08.2012 was registered at police station Rampura, Distt. Rewari.

The legal heirs of the deceased filed claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act'). It was claimed that deceased was a Hardware Computer Engineer and was earning ₹15,000/- per month. The claimants were not able to prove the monthly earning of the deceased. But with regard to his qualifications, marks-sheet of M.A. (Political Science) of Rajasthan University was produced as Ex. PW-2/3. Copy of the mark-sheet issued by the Institute of Hardware Technology was exhibited as Ex. PW-2/4. It was claimed that deceased was running a business in a rented shop. No proof or document was produced to prove either that the shop was taken on rent or that he was running a business. In such circumstances, the Tribunal assessed the monthly income of the deceased as ₹5400/-. In absence of any proof, the safest yardstick is to apply minimum wages prevalent in the State of Haryana at the time of accident, Tribunal rightly assessed the monthly earning.

The Tribunal made 1/3rd deduction for self-expenses and applied multiplier of 18, in-consonance with the decision rendered by Supreme Court in ***Smt. Sarla Verma and Others v. Delhi Transport Corporation and another 2009 (6) SCC 121***.

The Tribunal awarded a sum of ₹1,00,000/- for loss of consortium and ₹25,000/- for funeral expenses.

The grievance of the learned counsel for the appellants is that no future prospect have been added while awarding the compensation.

The learned counsel for the Insurer argued that the amount awarded under conventional heads is on the higher side.

Supreme Court in case of ***National Insurance Company Ltd. v. Pranay Sethi and others 2017 (4) RCR (Civil) 109 and Hem Raj v. Oriental Insurance Company Ltd. 2017 DNJ 1102*** has held that 40% future prospects are to be awarded where the deceased is below 40 years of age and was having fixed salary or was self-employed. An amount of ₹70,000/- is to be awarded under the conventional heads i.e. funeral expenses- ₹15,000/-, loss of estate-₹15,000/- and loss of consortium- ₹40,000/-.

Since the parties have not disputed the loss of dependency calculated at ₹7,77,600/-, 40% of the said amount is awarded as future prospects i.e. ₹3,11,040/-. The amount awarded under the conventional heads of ₹1,25,000/- is restricted to ₹70,000/-.

The award dated 30.04.2014 is modified to the extent that the amount awarded of ₹9,02,600/- is enhanced by ₹2,56,040/-. The counsel for the appellants has stated that widow has not filed any appeal for enhancement of compensation.

The enhanced amount would be apportioned in the ratio as determined by the Tribunal.

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

The appeal is partly allowed with the above-said terms.

16.03.2018 **(AVNEESH JHINGAN)**
Seema **JUDGE**

Whether speaking/ reasoned	:	Yes/ No
Whether reportable	:	Yes/ No