IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1357-2017 (O&M)
Date of decision:- 30.05.2018

Oriental Insurance Co. Ltd.

...Appellant

Versus

Manjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Lalit Garg, Advocate,
for the appellant.

Mr. Neeraj Khanna, Advocate,
for respondents No. 1 to 4.

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AVNEESH JHINGAN, J. (ORAL)

The present appeal has been filed against the award dated 02.11.2016 passed by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short the 'Tribunal').

2. The insurer of Indica car bearing registration No. HR-03-F-0038 has filed the present appeal being aggrieved by the quantum of compensation awarded on account of death of Rupinder Kaur. Compensation was awarded under Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act').

3. On 14.09.2015, Rupinder Kaur alongwith her friend Daljit Kaur was travelling in a Verna car bearing registration No. PB-43-D-0016. The car was being driven by Varinder Singh. When they reached at Ice Factory near Tinku's Sheller, the said car was struck by an Indica car bearing registration No. HR-03-F-0038 (for short the offending vehicle). As a result of the accident, Rupinder Kaur suffered injuries. She was taken to Civil Hospital, Morinda, she was

declared brought dead. FIR No. 153 dated 14.09.2015 was registered at Police Station Morinda.

4. The legal heirs of the deceased filed a claim petition under Section 166 of the Act. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The income of the deceased was assessed as ₹ 12,000/- per month. 50% deduction was made for self expenses. 50% future prospects were added and the Tribunal awarded a sum of ₹ 19,69,000/- alongwith interest at the rate of 6% per annum. The amount awarded included ₹ 25,000/- for funeral expenses.

5. Heard the learned counsel for the parties; perused the paper book and the relevant documents produced by them.

6. The appellant argued that the monthly earning of ₹ 12,000/- is on the higher side as it is much more than the minimum wages prevalent at the time of the accident. His grievance is that 40% future prospects are to be awarded instead of 50%. He contended that the deceased was unmarried, multiplier should be applied considering the age of the parents.

7. The learned counsel for the claimants contended it was proved that the deceased was first year student of BBA and was a book writer. In such circumstances, the monthly earning assessed by the Tribunal needs no interference. His contention is that the multiplier has rightly been applied as the age of the deceased is to be considered. He argued that the amounts awarded under the conventional heads are on the lower side. He further argued that no amount has been awarded for the loss of estate.

8. The contention raised by the learned counsel for the appellant that the monthly earning assessed of the appellant is on the higher side is not well founded. The claimants had duly

proved by deposition of Manjit Kaur, PW-1 and Sohan Singh, PW-2 that the deceased was a student of BBA Degree, first year. The book written by the deceased was also proved before the Tribunal as Exhibit P-4. This evidence itself is enough to show that she had a bright future ahead. At a young age, while she was studying in a college, she had authored a book. It would not be appropriate to restrict the monthly earning of such a bright student as that of a labourer. No doubt that in the absence of any proof of earning reliance is placed upon the minimum wages, but it is not an absolute rule that the Court cannot assess the monthly earning of a deceased beyond the minimum wages. For the reasons mentioned, no case is made out to reduce the monthly earning assessed by the Tribunal.

9. The contention raised that 40% future prospects should be added deserves acceptance in view of the decision of the Supreme Court in *National Insurance Company Limited Vs Pranay Sethi and others, 2017 AIR (SC) 5157*. The deceased was below 40 years of age and comes within a category of self-employed.

10. The contention raised by the learned counsel for the appellant that the multiplier considering the age of the parents should be applied is not well founded. It is the age of the deceased which is considered while applying the multiplier. Reliance in this regard is placed on the decision of the Supreme Court in *Shri Nagar Mal Vs Oriental Insurance Company Ltd.*, Civil Appeal No. 448 of 2018, decided on 19.01.2018 and *Sube Singh and another Vs Shyam Singh (Dead) and others*, Civil Appeal No. 7176 of 2015 decided on 09.02.2018.

11. As the quantum of compensation is revisited, it would be appropriate that the amounts awarded under the conventional heads are made in consonance with the decision of the Supreme

Court in *National Insurance Company Limited Vs Pranay Sethi and others* (supra). The claimants would be entitled to ₹ 15,000/- each for loss of estate and funeral expenses.

12. For the reasons mentioned above, the compensation is re-calculated as under:-

Monthly Income	₹12,000/-
40% future prospects	₹4800/-
	₹16,800/-
1/2 deduction for self expenses	₹8400/-
	(16800-8400= ₹8400/-)
Multiplier of 18	8400 x 18 x 12
	₹18,14,400/-
Conventional Heads	₹30,000/-
Total:	18,44,400/-

13. The award dated 02.11.2016 is modified to the extent that the amount awarded to the tune of ₹19,69,000/- is reduced to ₹ 18,44,400/-.

14. While issuing notice of motion, recovery beyond ₹ 10 lacs was stayed. The claimants would be entitled to the balance amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

15. The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

30.05.2018
Amodh

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