IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7672-2016 (O&M)
Date of decision:- 28.05.2018

Smt. Gyashri

...Appellant

Versus

Shiv Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Devender Arya, Advocate,
for the appellant.

Mr. Puneet Jain, Advocate,
for respondent No. 3.

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AVNEESH JHINGAN, J. (ORAL)

The present appeal has been filed against the award dated 01.03.2016 passed by the Motor Accident Claims Tribunal, Narnaul (for short the 'Tribunal').

2. The brief facts of the case are that on 15.10.2014, Antesh Kumar was driving a motorcycle bearing registration No. HR-34D-7276 and one Ramu was the pillion rider of the aforesaid motorcycle. Near village Unhani, the motorcycle was struck rashly and negligently by a Trala bearing registration No. HR-63B-2555. As a result of the accident, Antesh Kumar and Ramu lost their lives. FIR No. 310 dated 15.10.2014 was registered at Police Station, Kanina.

3. In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, the Tribunal awarded a sum of ₹7,25,168/- alongwith 9% interest.

4. The learned counsel for the appellant contended that the Tribunal erred in assessing the income of the deceased as ₹4800/- which is less than even the minimum wages prevalent for the unskilled labourers at the time of accident. His grievance

is that no future prospects have been added. He states that the amount awarded under the conventional heads is on the lower side.

5. The learned counsel for the insurer argued that the earning of the deceased was not proved. Even no evidence was adduced regarding his occupation. In such circumstances, no case is made out for enhancement of compensation.

6. In cases, where the earning of the deceased is not proved by the claimants, the safest yardstick is to rely upon the minimum wages prevalent at the time of accident. In the State of Haryana, in November, 2014, the minimum wages of an unskilled labourer were approximately ₹ 5600/-. The compensation will be calculated considering the monthly income of the deceased as ₹ 5600/-. The deceased was a bachelor, hence, one half deduction is to be made for self expenses and multiplier of 18 is to be applied as per the age of the deceased. Having regard to the decision of the Supreme Court in *National Insurance Company Limited Vs Pranay Sethi and others, 2017 AIR (SC) 5157*, 40% future prospects are to be added. The appellant is entitled to ₹ 30,000/- under conventional heads i.e. ₹ 15,000/- for loss of estate and ₹ 15,000/- for funeral expenses. An amount of ₹ 1,86,768/- qua the medical bill was already awarded by the Tribunal.

7. The compensation is, thus, re-calculated as under:-

Monthly Income	₹ 5600/-
40% future prospects	₹ 2240/-
	₹ 7840/-
1/2 deduction for self expenses	₹ 3920/- (7840-3920= ₹ 3920/-)
Multiplier of 18	3920 x 18 x 12 ₹ 8,46,720/-
Conventional Heads	₹ 30,000/-
Medical bills already awarded by the tribunal	1,86,768/-
Total:	10,63,488/-

8. The award dated 01.03.2016 is modified to the extent that the amount awarded to the tune of ₹ 7,25,168/- is enhanced to ₹ 10,63,488/-.

9. The appellant would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

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

(AVNEESH JHINGAN)
JUDGE

28.05.2018
Amodh

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