IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7705-2016 (O&M)
Date of decision: 19.11.2018

Lajwanti and others .... Appellants

Versus

Sunil Dutt Sharma and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Rajbir Singh, Advocate
for the appellants.

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Avneesh Jhingan, J. (Oral)

The present appeal has been filed against the award dated 11.02.2016 passed by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the 'Tribunal') seeking enhancement of compensation.

The widow and two major sons of Amar Chand are the appellants. The owner-cum-driver of truck bearing registration No.PB-08AZ-9461 (for brevity, 'offending vehicle'), owner and insurer of the offending vehicle i.e. National Insurance Company Limited, have been arrayed as respondents No.1 to 3 respectively, in the present appeal.

The brief facts necessary for adjudication of the appeal are that on 18.09.2014, Amar Chand was going to Sangrur on his motorcycle bearing registration No.PB-13N-1783. When he reached near Ladda Bus Stand, his motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he fell down on the road and suffered multiple grievous injuries including head injury. He was taken to Civil Hospital, Dhuri. From there, he was referred to Rajindra Hospital, Patiala, where he died during the treatment. FIR No.181 dated 18.09.2014 was registered.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act') was filed by the legal heirs of the deceased.

The Tribunal, after considering the facts and on appreciating the evidence produced, held that the accident occurred due to rash and negligent driving of the offending vehicle. Respondent No.3-Insurance Company was held liable to pay compensation to the claimants. The Tribunal awarded a sum of ₹3,55,000/- along with interest @ 7.5% per annum. The amount awarded included ₹1,75,000/- under the conventional heads i.e. ₹25,000/- for funeral expenses, ₹1,00,000/- for loss of consortium to widow and ₹25,000/- each for love and affection to the sons.

The Tribunal assessed the monthly income of the deceased as ₹6000/-; 1/2 deduction for self expenses was made and multiplier of 5 was applied.

Learned counsel for the appellants contended that the Tribunal erred in making ½ deduction for self expenses whereas in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121,*** 1/3rd deduction for self expenses should have been made.

The contention raised by learned counsel for the appellants prima facie deserves acceptance but keeping in view the fact that under the conventional heads, instead of awarding ₹70,000/- as per decision of the Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors., AIR 2017 SC 5157,*** already a sum of ₹1,75,000/- has been awarded and even if 1/3rd deduction is made for self expenses, it will not result in any further enhancement.

No interference is called for in the award dated 11.02.2016 passed by the Tribunal. The appeal is hereby dismissed.

(AVNEESH JHINGAN)
JUDGE

19.11.2018
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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No