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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.2187 of 2017
Date of Decision: 06.12.2018

Barinder Kaur and others

Appellants

Versus

Baldev Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for the Insurance Company.

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AVNEESH JHINGAN, J (Oral):

The award dated 01.12.2016 passed by the Motor Accident Claims Tribunal, Patiala [for brevity 'the Tribunal'] has been assailed by the legal heirs of Harminder Singh seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

Widow and two minor children are the appellants. The Driver of Canter bearing registration No. HR-45A-3625 [hereinafter referred to as 'offending vehicle'], owner and insurer of the offending vehicle i.e. Cholamandalam MS General Insurance Company Ltd. have been arrayed as respondents No.1 to 3 respectively in the appeal. Father of the deceased has been arrayed as proforma respondent No.4.

The brief facts necessary for adjudication of the present appeal are that on 24.05.2016, Harminder Singh alongwith Darshan

Singh was going on motorcycle bearing registration No. PB-39C-2657. When they reached near Simran Dhaba at T-point (village Pehar Kalan Road), their motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, both the occupants of the motorcycle fell down and suffered multiple injuries. They were provided first aid at A.P. Jain Hospital, Rajpura and thereafter they were taken to Sector 32 Hospital, Chandigarh, where Harminder Singh succumbed to the injuries suffered in the accident. FIR no. 78, dated 25.05.2016 was registered at Police Station Shambu.

A claim petition under Section 166 of the Act was filed. The Tribunal, after considering the facts and appreciating the evidence adduced, held that accident was caused due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹13,05,000/- alongwith interest @ 6% per annum. The said amount included ₹25,000/- for funeral expenses, ₹1,00,000/- for loss of love & affection to both the minor children and ₹1,00,000/- for loss of consortium to the widow.

In the claim petition, it was pleaded that the deceased was a Computer Operator and his monthly earning was ₹20,000/-, but the claimants failed to adduce any cogent evidence in support of the occupation and monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹8,000/-, made 1/4th deduction for self-expenses and multiplier of '15' was applied.

Heard learned counsel for the parties, perused the paper book and relevant documents produced.

Learned counsel for the appellants contends that only grievance is that no future prospects have been awarded.

Learned counsel for the insurer argues that amounts awarded under the conventional heads are on higher side and no amount can be awarded for loss of love & affection.

The issue involved is that future prospects and amounts under conventional heads are to be awarded in consonance with the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.***

There is no dispute to the fact that the deceased was 36 years old at the time of accident. Having due regard to the decisions of the Supreme Court in ***Pranay Sethi's*** case (supra) and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, 40% future prospects are awarded. The appellants are entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- is awarded to the widow for loss of consortium.

As the quantum of compensation is being revisited, it would be appropriate that the amount awarded under the conventional heads be made in consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra). No amount can be awarded for loss of love & affection.

In view of above discussion, compensation is recalculated as under:-

Particulars	***Amount (in ₹)***
Monthly income of the deceased assessed	8,000/-
40 % Future Prospects	3,200/-
Sub Total	11,200/-
1/4th deduction for self expenses	(-) 2,800/-
Monthly Dependancy	8,400/-
Annual Dependancy	1,00,800/-
Applying multiplier of 15	**15,12,000/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**15,82,000/-**

The award dated 01.12.2016 is modified to the extent that amount of ₹13,05,000/- awarded by the Tribunal is enhanced to ₹15,82,000/-. The amount awarded for loss of consortium to widow shall be disbursed to the widow and the balance amount shall be disbursed to the claimants in the same proportion as was held by the Tribunal.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

December 06th, 2018

pankaj baweja

1. Whether speaking/ reasoned : **Yes**/ No
2. Whether reportable : **Yes**/ No