

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 5278 of 2017 (O&M)

Date of Decision: 14.05.2018

Balbir Kaur and others

.....Appellants

Versus

Kala and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. R.N. Singal, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(oral)

This is an appeal against the award dated 19.07.2016 passed by the Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal').

A motor vehicular accident took place on 04.01.2015 which proved fatal for Kulwant Singh, aged 58 years. On the fateful day, the deceased was driving the oil Tanker bearing registration No.PB-10-AN-5968 near village Data Singh Wala, P.S. Garhi, District Jind. The said tanker was struck by a rashly and negligently driven truck bearing registration No.PB-03AA-6297 (for short 'the offending vehicle'). As a result of the accident, Kulwant Singh suffered grievous injuries and died on the spot. FIR No. 4 dated 05.01.2015 was registered at Police Station Garhi.

A Claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the legal heirs of the deceased. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of Rs. 13,35,000/- along with interest at the rate of 6% per annum. The amount awarded included

Rs.1,20,000/- under conventional heads.

The claimants have filed the present appeal for enhancement of compensation.

Respondent No.1 is the driver of the offending vehicle; respondent No.2 is the owner of the offending vehicle; respondent No.3 is the insurer of the offending vehicle and respondents No. 4 and 5 are the married daughters of the deceased and have been arrayed as perma respondents.

Learned counsel for the appellants has raised only one issue that the Tribunal while awarding compensation has not added future prospects.

Learned counsel for the insurer argued that already excess amount has been awarded under conventional heads and hence, no further enhancement is called for.

The deceased was a driver and his monthly earning was assessed by the Tribunal as Rs.15,000/-. There is no dispute raised by the parties on the earning assessed. 1/4th deduction for personal expenses was made and multiplier of 9 was applied.

Having due regard to the decision of the Supreme Court in **National Insurance Company Limited Versus Pranay Sethi and others**, 2017 AIR (SC) 5157, 10% future prospects are to be added. Under conventional heads, the appellants would be entitled to Rs.70,000/- i.e. Rs. 15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

Since there is no dispute with regard to loss of dependency calculated of Rs.12,15,000/-, 10% future prospects on the said amount is awarded i.e. Rs.1,21,500/-. Excess amount has been awarded by the

Tribunal under conventional heads, hence, the same are restricted to Rs.70,000/-. Meaning thereby, a sum of Rs.50,000/- is reduced from future prospects.

The net effect is that the amount awarded of Rs.13,35,000/- by the Tribunal is enhanced by Rs.71,500/-

The claimants 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.

The appeal is partly allowed in the aforesaid terms.

14.05.2018

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No