IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 408 of 2018

Date of Decision: 05.12.2018

Pooja and others

.......Appellants

Versus

Sandeep and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Narender Kaajla, Advocate
for the appellants.

Mr. R.K. Bashamboo, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The award dated 12.10.2017 passed by Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal') has been assailed by legal heirs of Kuldeep for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The widow, minor daughter and parents of Kuldeep are the appellants. The driver of Truck bearing registration No.HR-61-1157 (hereinafter referred to as 'offending vehicle'), owner and insurer (i.e. The New India Assurance Company Limited) of the offending vehicle have been arrayed as respondents No. 1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 15.9.2015 Kuldeep, aged 27 years along with Dharambir was going to village Talwandi Ruka from Village Saharwa on a motor cycle bearing registration No.HR-20AB-7942. When they reached near fields of Surjeet on Saharwa to Talwandi Ruka Road, Dharambir stopped the motor cycle on the kacha portion to meet Surjeet. Kuldeep was standing near the motor cycle, in the meantime, Kuldeep was hit by a rashly and negligently driven offending vehicle. As a result of the injuries sustained in the accident, he died at the spot. FIR No. 941 dated 15.9.2015 was registered at Police Station Sadar Hisar.

A claim petition was filed under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to 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 compensation. The monthly income of the deceased was assessed as ₹8100/-; 1/4th deduction for self expenses was made and multiplier of 17 was applied. The Tribunal awarded a sum of ₹15,14,300/- along with interest at the rate of 9% per annum. The amount awarded included ₹25,000/- for funeral and transportation expenses, ₹1 lakh for loss of love and affection to claimant No.2 and ₹50,000/- to claimants No. 2 and 3 and Rs. 1 lakh for loss of consortium to claimant No.1.

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

Learned counsel for the appellants contended that no future prospects have been awarded.

Learned counsel for the insurer argued that no amount should be awarded for loss of love and affection. The amount awarded under conventional heads should be made in consonance with the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157*** .

There is no dispute between the parties regarding monthly income, deduction made for self expenses and multiplier applied.

Having due regard to the decision of the Supreme Court in ***Pranay Sethi''s case (supra)*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480.,*** keeping in view the age of the deceased and the fact that he was having fixed wages, 40% future prospects are awarded.

As the quantum of compensation is being revisited, the amounts awarded under conventional heads are made in consonance with the decision of the Supreme Court in ***Pranay Sethi's case (supra).***

The claimants are awarded ₹15,000/- each for loss of estate and funeral expenses and ₹40,000/- for loss of consortium to the widow.

No amount can be awarded for loss of love and affection.

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

Sr. No.	Paritulars	Amount awrded
1.	Monthly income	₹8100/-
2.	40% Future Prospects (8100x40%) (8100+3240=11,340)	₹3240/-
3.	1/4th deduction for self expenses (11340-2835=8505)	₹2835/-
4.	Applying multiplier of 17 (8505x12x17)	₹17,35,020/-
5.	Conventional heads (₹15000/-each for loss of estate and funeral expenses and ₹40,000/- for loss of consortium)	₹ 70,000/-
6.	Total	₹18,05,020/-

The award dated 12.10.2017 is modified to the extent that amount awarded of ₹15,14,300/- by the Tribunal is enhanced to ₹18,05,020/-.

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 partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

05.12.2018
reema

Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No