IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7135 of 2017 (O&M)
Date of decision:04.09.2018.

Meenu and others

...Appellants

Versus

Pawan Kumar and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ishan Cooner, Advocate for
Mr. J.S. Cooner, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for respondent No.4/Insurance Company.

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by Motor Accident Claims Tribunal, Ambala (`Tribunal' for short) vide award dated 15.03.2017 on account of death of Jagdish Kumar in a motor vehicle accident on 05.06.2016.

The claimants, who are the widow and children of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Jagdish Kumar in a motor vehicle accident which took place on 05.06.2016. FIR No.99 dated 06.06.2016 was registered under Sections 279 and 304-A IPC against respondent No.1 at Police Station Mullana. It was averred that the deceased at the time of his death was working as a daily wage labourer in Krishi Vigyan Kandra while running a Milk Dairy as well. His monthly income was stated to be

Rs.20,000/-. Claimants were fully dependent upon the deceased. Compensation was thus prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending vehicle by respondent No.1. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. Learned Tribunal further assessed the age of the deceased to be 33 years at the time of his death. The learned Tribunal assessed the income of the deceased as Rs.361/- per day, Rs.10,830/- per month and Rs.1,29,960/- per annum. Deduction of 1/4th was effected towards the personal expenses. After applying a multiplier of 16, total dependency was assessed at Rs.15,59,520/-. Another sum of Rs.1,00,000/- was awarded for the loss of consortium. A sum of Rs.50,000/- each was also awarded to claimants No.2 to 4 for loss of love and affection. Another sum of Rs.25,000/- was awarded towards funeral expenses. Thus, claimants were held entitled for total compensation of Rs.18,34,520/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that there is no dispute regarding the income and age of the deceased as assessed by the Tribunal. Multiplier of 16 has rightly been applied but increase in income on account of future prospects in view of National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 has not been afforded to the claimants.

Learned counsel for the appellants submits that claimants have no objection in case amount of compensation under the conventional heads is reduced from Rs.2,75,000/- to Rs.70,000/-. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the Insurance Company has refuted the above said arguments while submitting that the impugned award has correctly been passed and no ground for any enhancement is made out.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Age of the deceased i.e. 33 years is not in dispute. Income assessed at Rs.10,830/- is also not in dispute. Sole argument raised by learned counsel for the appellants is that in view of the guidelines laid down by the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, 40% increase in income has to be afforded on account of future prospects. The said increase is doubtlessly to be afforded. Deduction of 1/4th towards personal expenses has rightly been effected. Multiplier of 16 has rightly been applied. Claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.25,000/- towards funeral expenses and Rs.1,50,000/- towards loss of love and affection, besides Rs.40,000/- instead of Rs.1,00,000/- to the claimant widow for loss of consortium.

Appellants-claimants are, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	
1.	Income	10,830 p.m. i.e., 1,29,960/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,29,960+51984 (129960x40%) = 1,81,944/-

3.	Income after deduction of 1/4th on account of personal expenses	1,81,944–45486 (1,81,944/1/4th) = 1,36,458/-
4.	Total dependency after applying a multiplier of 16	(1,36,458 **x**16) =21,83,328/-
5.	Loss of estate	15,000/-
6.	Loss of consortium to wife	40,000/-
7.	Loss of funeral	15,000/-
Grand Total		22,53,328/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the award dated 15.03.2017, present appeal is disposed of.

(LISA GILL)
JUDGE

September 04, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No