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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.763 of 2002
Date of Decision : 27.03.2019

Balwinder Kaur and another

Appellants

Versus

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.K. Singla, Advocate
for the appellants.

Mr. Randeep S. Khaira, A.A.G., Punjab.

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AVNEESH JHINGAN, J (Oral):

The award dated 28.09.2001 passed by the Motor Accident Claims Tribunal, Faridkot [for brevity 'the Tribunal'] has been assailed by the parents of Daljit Singh seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

State of Punjab, through its Secretary, Transport; Owner i.e. Punjab Roadways, Moga Depot and Jaswant Singh, Driver of Bus bearing registration No. PB-12B-9501 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The facts in brief are that a motor vehicular accident took place on 12.09.2000. Daljit Singh, aged 21 years was going on Scooter bearing registration No. PB-29A-5246 . On his way, the Scooter was struck by a rashly and negligently driven offending vehicle. As a result of the impact, Daljit Singh fell down, sustained injuries and died at the spot. FIR was registered at Police Station Baghapurana.

In the claim proceedings, it was pleaded that the deceased was unmarried and 21 years old at the time of accident. It was claimed that he was cultivating land owned by his father and was also taking land on lease for cultivation. His earning was claimed to be ₹1,50,000/- per annum. The claimants failed to prove earning of the deceased, even it was not proved that he was cultivating land owned by his father. One Jagdish Singh deposed before the Tribunal as PW-2 and stated that the deceased was taking his land on lease for cultivation. The statement was not found worth reliance as in the Revenue entries, Daljit Singh's name never figured in the column of cultivation. Moreover, Form-J issued under Punjab Agricultural Produce Markets Act, 1961 was also not in the name of Daljit Singh rather it was in the name of Jagdish Singh. Forms proved that it was actually Jagdish Singh who was selling the agricultural produce.

The Tribunal relied upon the minimum wages prevalent in the State at the relevant time and assessed monthly income of the deceased as ₹1,800/-; 1/3rd deduction for self-expenses was made and multiplier of '17' was applied. The Tribunal awarded a sum of ₹2,51,800/- alongwith interest @ 9% per annum. ₹2,000/- were awarded for funeral expenses and ₹5,000/- were awarded for loss of consortium.

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

Learned counsel for the appellants contends that income of the deceased assessed by the Tribunal is on the lower side; multiplier of '17' has wrongly been applied; amounts awarded under the conventional heads are on the lower side and no future prospects have been awarded by the Tribunal.

Learned counsel for the insurer argues that claimants failed to prove occupation and monthly earning of the deceased, thus the Tribunal has rightly assessed income of the deceased as ₹1,800/- per month. He further argues that 1/3rd deduction for self-expenses has wrongly been made and ½ deduction for self-expenses be made as the deceased was bachelor and no amount be awarded for loss of consortium.

The claimants failed to prove earning of the deceased. Apart from self-serving statement of mother of the deceased, there is nothing on record to show that he was cultivating land owned by his father. Be that as it may, it would not be appropriate to equate a 21 years' young boy with an unskilled labourer whose father owns agricultural land. Taking a clue from minimum wages, monthly income of the deceased is assessed as ₹2,000/- per month.

Having due regard to the decisions of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,*** 40% future prospects are awarded as the deceased was below 40 years of age and would fall under the category of self-employed or a person having fixed wages.

The deceased was 21 years old at the time of accident, as per decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** multiplier of '18' is applied.

Since the deceased was bachelor at the time of accident, ½ deduction for self-expenses is made.

As the quantum of compensation is being re-visited, the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in ***Pranay Sethi's case*** (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	2,000/-
40% Future Prospects	800/-
Sub Total	2,800/-
½ deduction for self expenses	1,400/-
Monthly Dependency	1,400/-
Annual Dependency	16,800/-
Applying multiplier of '18'	**3,02,400/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Grand Total	**3,32,400/-**

The award dated 28.09.2001 is modified to the extent that amount of ₹2,51,800/- awarded by the Tribunal is enhanced to ₹3,32,400/-.

The claimants shall be entitled to the enhanced amount alongwith interest @ 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

March 27, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : Yes