IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.4332 of 2005
Date of decision :13.3.2019

Geeta Devi and others

.....Appellants

Versus

Zakir and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Sandeep Jasuja, Advocate for the appellants.
Mr.D.P.Gupta, Advocate for respondent No.2.

DEEPAK SIBAL, J.(ORAL)

The present appeal has been filed by the appellants-claimants seeking therein enhancement in the compensation awarded to them by the Motor Accident Claims Tribunal, Gurgaon (for short, `the Tribunal').

The facts, in brief, are that on 28.5.2003, Satbir (since deceased) was returning to his house. When he reached near Sethi Octroi Khori, a dumper bearing registration No.HR-55-B-1715 (for short, `the offending vehicle') hit him resulting in grievous injuries to him to which he succumbed latter. The appellants-claimants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, `the Act') seeking therein compensation.

After sifting the evidence which had come on record, the Tribunal, after concluding that the accident had been caused due to the rash and negligent driving by the driver of the offending vehicle, assessed the payable compensation to be paid by the respondents jointly and severally, the enhancement of which is sought through the present appeal.

Learned counsel for the appellants submits that at the time of his death, the deceased was a labourer and thus, at least the prescribed monthly minimum wages of ₹2197.84 should have been considered. Thus, according to him, the Tribunal erred in assessing the deceased's income @ ₹2,100/- per month. He further submits that the Tribunal further erred in deducting 1/3rd from the assessed income of the deceased on account of personal expenses. Since there were five claimants, only 1/4th deduction should have been made. Relying upon the law laid down by the Constitution Bench of the Hon'ble Apex Court in National Insurance Company Limited v. Pranay Sethi and others **(2017) 16 SCC 680,** future prospects @40% to the assessed income of the deceased as also a cumulative sum of ₹70,000/- under the conventional heads, namely, `loss of estate', `loss of consortium’, and `funeral expenses’ was also claimed.

Learned counsel for the Insurance Company justified the compensation so assessed through the impugned award and submitted that there was no reason in law or in fact to grant any enhancement in the awarded compensation.

The notification of Govt. of Haryana shows the minimum wages for unskilled workers at the relevant time were ₹2197.84 per month. Thus, instead of ₹2,100/-, the income of the deceased is assessed at the rate of ₹2,200/- per month.

In view of the fact that there are five dependents on the deceased, a cut of 1/4th on account of personal expenses from the assessed income is ordered to be imposed instead of 1/3rd as applied by the Tribunal. Further, in the light of the law laid down by the Hon’ble Apex Court in Pranay Sethi’s case (supra), since at the time of his death, the deceased was 31 years of age, the claimants are held entitled to future prospects @40% on the assessed income of the deceased as also a cumulative sum of ₹70,000/-

under the conventional heads, namely, `loss of estate', `loss of consortium' and `funeral expenses'.

The appellants are also held entitled to interest @6.5% per annum on the enhanced amount from the date of filing of the claim petition by them before the Tribunal till the date of its realization.

The appeal is allowed in the above terms.

March 13, 2019 (DEEPAK SIBAL)
KD JUDGE

Whether speaking / reasoned: Yes / No

Whether Reportable: Yes / No