IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1827 of 2007 (O&M)
Date of decision: 16.5.2019

Renu Bala and others

.. Appellants

v.

Om Parkash and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. D. S. Adalakha, Advocate for the appellants.
None for the respondents despite service.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 4.1.2007 passed by the Motor Accident Claims Tribunal, Jagadhri (for short, 'the Tribunal') has been assailed by the legal representatives of Thakur Dass seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The appellants in the appeal are the widow, minor daughter and parents of the deceased.

The respondents in the appeal are the driver of TATA Canter bearing registration No. HR-37-5510 (hereinafter referred to as 'the offending vehicle') and owner of the offending vehicle.

The facts emanating from the record are that Thakur Dass, aged 24 years, was returning from village Bal Chhaper to village Mustafabad on motorcycle bearing registration No. HR-04A-5226. Jony and daughter of

Thakur Dass were also sitting on the motorcycle. When they reached near village Sabalpur, the motorcycle was struck by the offending vehicle. As a result of the impact, the riders of the motorcycle fell down and received injuries. They were taken to Civil Hospital, Jagadhri, where Thakur Dass was declared dead. FIR No. 193 dated 31.8.2004 was registered at Police Station Chhapper.

In the claim petition, the claimants failed to prove the earning and occupation of the deceased. The Tribunal assessed the monthly earning as ₹2,100/-, made 1/3rd deduction for self expenses and applied multiplier of 16. The Tribunal awarded a sum of ₹2,83,800/- alongwith interest @ 7.5% per annum. The amount awarded included ₹10,000/- for transportation and funeral expenses and ₹5,000/- for loss of consortium.

The Tribunal considering the facts and appreciating the evidence held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner and the driver were held jointly and severally liable to pay the compensation as the offending vehicle was not insured.

Heard learned counsel for the appellants and perused the record.

Learned counsel for the appellants argues that no future prospects have been awarded and the Tribunal erred in applying multiplier of 16 instead of 18. His grievance is that 1/3rd deduction has wrongly been made as the deceased was survived by four dependents. He further argues that the amounts awarded under the conventional heads are on the lower side.

There is no challenge to the income of the deceased assessed by the Tribunal.

The deceased was below 40 years and fell in the category of self-employed or having fixed wages. As per the dictum of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157** and **Hem Raj v. Oriental Insurance Company Ltd., 2018(2) PLR 480,** 40% future prospects are awarded.

The deceased was 24 years old at the time of accident. As per decision of the Supreme Court in **Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 21**, multiplier of 18 is applied. The deceased was survived by widow, minor child and old parents who who were in their mid-60s. At this age, even the father would be considered as financially dependent on his son, 1/4th deduction for self-expenses is made. The claimants are entitled to ₹15,000/- each for loss of estate and funeral expenses and ₹40,000/- is awarded to the widow for loss of consortium.

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

Particulars	***Amount awarded in ₹***
Monthly income	2,100/-
Future prospects @ 40%	840/-
Total	2,940/-
1/4th deduction for self expenses	735/-
Loss of income	2,205/-
Multiplier	18
Loss of income	4,76,280/-
Conventional heads	70,000/-
Total compensation awarded	5,46,280/-

The award dated 4.1.2007 is modified to the extent that amount awarded of ₹2,83,800/- by the Tribunal is enhanced to ₹5,46,280/-.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till its realisation.

The appeal is disposed of in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

16.5.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No