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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.5433 of 2005
Date of Decision : 26.03.2019

Kamla and others

Appellants

Versus

Ranbir Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Saurabh Kapoor, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

None for respondent No.3-Insurance Company.

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AVNEESH JHINGAN, J (Oral):

The award dated 16.08.2005 passed by the Motor Accident Claims Tribunal, Sonipat [for brevity 'the Tribunal'] has been assailed by widow and three children of Mohan Lal seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. The New India Assurance Company Ltd.) of Tractor bearing registration No. HR-10F-5644 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts emanating from the record are that on 16.05.2004, Mohan Lal alongwith his son Rajinder Kumar was coming back to his house. On his way, he was hit by the offending vehicle. As a result of the impact, he fell down and wheel of the offending vehicle crossed over the head of Mohan Lal, he died at the spot. FIR No.43, dated 16.05.2004 was registered at Police Station Kundli.

In the claim proceedings, it was claimed that the deceased was a Contractor and used to earn ₹10,000/- per month. The claimants failed to prove occupation and monthly earning of the deceased. The Tribunal assessed monthly income of the deceased as ₹3,900/-; 1/3rd deduction for self-expenses was made and multiplier of '11' was applied considering his age as 52 years. The Tribunal awarded a sum of ₹3,48,200/- alongwith interest @ 6% per annum. The amount awarded included ₹5,000/- for loss of love and affection and funeral expenses.

The Tribunal considering the facts and appreciating the evidence adduced held that the accident was caused due to the 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 the compensation.

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

Learned counsel for the appellants contends that no future prospects have been awarded and 1/3rd deduction for self-expenses has wrongly been made as deceased was survived by 4 dependents. His grievance is that amounts awarded under the conventional heads are on the lower side.

The contentions raised by learned counsel for the appellants deserve acceptance.

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,*** 10% future prospects are awarded as the deceased was in the age group of 50-60 years and would fall in the category of self-employed or a person having fixed wages.

The deceased was survived by four dependents. In consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** 1/4th deduction for self-expenses is made.

Multiplier has rightly been applied and there is no dispute regarding income assessed by the Tribunal.

As the quantum of compensation is being re-visited, the amounts under the conventional heads are awarded as per 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 loss of estate. ₹40,000/- are awarded to the widow for loss of consortium.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	3,900/-
10% Future Prospects	390/-
Sub Total	4,290/-
1/4th deduction for self expenses	1,072.5/-
Monthly Dependency	3,217.5/-
Annual Dependency	38,610/-
Applying multiplier of '11'	**4,24,710/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to the widow	**40,000/-**
Grand Total	**4,94,710/-**

The award dated 16.08.2005 is modified to the extent that amount of ₹3,48,200/- awarded by the Tribunal is enhanced to ₹4,94,710/-.

The claimants shall be entitled to the enhanced amount alongwith interest @ 7.5% 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 26, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : No