

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O.No. 2872 of 2006 (O&M)

Date of Decision: 11.03.2019

Baljit Kaur and others

.....Appellants

Versus

Rajinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Malkeet Singh, Advocate
for the appellants.

Mr. Vipul Babuta, Advocate
for respondent No.2.

Mr. Gopal Mittal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 4.4.2006 passed by the Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal').

The appellants are widow and three minor children of Gurdeep Singh. Respondent No.1 is driver of truck bearing registration No.PB-10-AD-9519 (for short 'the offending vehicle') and respondent No.2 is owner and respondent No.3 is insurer (i.e National Insurance Company) of the offending vehicle. Mother of Gurdeep Singh deceased, who died during the pendency of the appeal has been arrayed as proforma respondent.

The facts emanating from the record are that on 22.6.2001 Gurdeep Singh loaded the truck bearing registration No.PUW-4195 with bricks and was going from Jalalabad to Talwara. Balbir Chand was the cleaner. He was being followed by another truck driven by Iabql Singh. On

his way, the truck driven by Gurdeep Singh was struck by a rashly and negligently driven offending vehicle. As a result of the impact, the Truck of Gurdeep Singh caught fire, body of Gurdeep Singh was trapped in the vehicle, as a result he died. FIR No. 74 dated 22.6.2001 was registered.

In the claim petition it was pleaded that the deceased was owner and driver of the truck and used to earn ₹ 30,000/- per month. The claimants failed to prove the monthly earning of the deceased. The Tribunal assessed the monthly earning as ₹ 3000/-, 1/3 deduction for self-expenses was made and multiplier of 16 was applied. A sum of ₹ 3,91,000/- was awarded along with interest at the rate of 6% per annum. The amount awarded included ₹ 7000/- under conventional heads i.e. on account of loss of consortium and funeral expenses.

Learned counsel for the appellants contends that no future prospects has been awarded. The Tribunal erred in making 1/3rd deduction for self-expenses instead of 1/4th, as the deceased was survived by five dependants. The grievance raised is that the amount awarded for funeral expenses and loss of consortium is on lower side and no amount has been awarded for loss of estate. No other issue has been raised.

Learned counsel for the insurer defends the award and resists any further enhancement.

The deceased was below 40 years of age at the time of accident and falls in the category of self-employed and in consonance with the decisions of the Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157 and Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480 40% future prospects are awarded.

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.

The claimants are also entitled to ₹ 15,000/- each for funeral expenses and loss of estate and ₹ 40,000/- is awarded to the widow for loss of consortium.

In view of the above discussion, the compensation is recalculated as under:

Sr. No.	Particulars	Amount Awarded
1.	Monthly income	₹ 3000/-
2.	40% future prospects	₹ 1200/-
3.	¼ deduction for self-expenses	₹ 1050/-
4.	Applying multiplier of 16 (3150x12x16)	₹ 6,04,800/-
5.	Conventional heads	₹ 70,000/-
6.	Total	₹ 6,74,800/-

The award dated 4.4.2006 is modified to the extent that amount awarded of ₹ 3,91,000/- by the Tribunal is enhanced to ₹ 6,74,800/-.

The claimants shall be entitled to enhanced amount alongwith interest at the rate of 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

11.03.2019
reema

Whether speaking/reasoned Yes
Whether Reportable: Yes