IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2557 of 2013 and
Cross Objections No. 78-CII of 2016
Date of decision: 10.4.2019

New India Assurance Company Ltd.

.. Appellant

v.

Shashi Kala and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sukhdarshan Singh, Advocate for the appellant.
Mr. Vikram Bali, Advocate for cross-objectors/
respondents No. 1 to 3.

...

AVNEESH JHINGAN, J. (Oral)

This order shall dispose of FAO No. 2557 of 2013 filed by the insurer of jeep bearing registration No. HP-65-0861 (hereinafter described as 'the offending vehicle') and Cross Objections No. 78-CII of 2016 filed by the claimants against the award dated 20.2.2013 passed by the Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (for short, 'the Tribunal').

The issue involved in the appeal as well as in the cross objections is regarding quantum of compensation.

A claim petition was filed by the widow and two minor children. The driver, owner and the insurer of the offending vehicle were arrayed as respondents No. 1 to 3 and mother of the deceased was arrayed as proforma respondent in the claim proceedings before the Tribunal.

The facts as emanating from the record are that on 10.11.2011, Ramesh Kumar aged 47 years was going on motorcycle bearing registration

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No. PB-12-N-1174 along with Ram Chander. Ramesh Kumar was the pillion rider. On their way, the motorcycle was hit by the offending vehicle, as a result of the impact, the motorcycle struck against a pole, both the riders of the motorcycle died at the spot. FIR No. 56 dated 11.11.2011 was registered.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal representatives of Ramesh Kumar. In the claim proceedings, age of the deceased was proved. Further, it was proved that the deceased was working as Sewer man with Municipal Council, Roopar and was drawing salary of ₹19,419/- per month. The Tribunal considered the salary of the deceased was ₹29,091/- per month, 1/4th deduction for self expenses was made as the deceased was survived by four dependants and multiplier of '13' was applied. The Tribunal awarded a sum of ₹34,04,764/- along with interest @ 7% per annum. The amount awarded included ₹10,000/- for funeral expenses and ₹6,000/- for loss of consortium to the spouse.

Learned counsel for the insurer argues that the gross salary of the deceased was proved as ₹19,419/- per month and the Tribunal erred in awarding compensation by considering the salary as ₹29,091/- per month.

Learned counsel for the cross-objectors/claimants could not raise any dispute to the fact that the gross salary of the deceased was ₹19,419/- per month. He raised the grievance that no future prospects have been awarded and the amounts awarded under the conventional heads are on the lower side.

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

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The salary certificate of the deceased was exhibited before the Tribunal as A1. As per the said salary certificate, the salary of the deceased was ₹19,419/- per month. The deceased was in the age group of 40-50 years and was having a permanent job. In consonance with the decisions of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157,** 30% future prospects are awarded.

As the amount of compensation is being re-visited, the amounts awarded under the conventional heads are made in consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra).** The claimants are awarded ₹15,000/- each for funeral expenses and loss of estate and ₹40,000/- for loss of consortium to the widow.

There is no dispute as to the deduction made for self-expenses and multiplier applied.

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

Particulars	***Amount awarded in ₹***
Monthly income	19,419/-
Annual income	2,33,880/-
30% future prospects	69,908/-
Total	3,02,936/-
1/4th deduction for self-expenses (3,02,936/4= 75,734)	75,734/- 2,27,202/-
Applying multiplier of '13'	29,53,626/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
Loss of consortium to the widow	40,000/-
Total compensation awarded	30,23,626/-

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The award dated 20.2.2013 is modified to the extent that the amount of ₹34,04,764/- ordered to be paid is reduced to ₹30,23,626/-.

Vide order dated 17.5.2013, recovery beyond ₹28,00,000/- was stayed.

The claimants shall be entitled to the balance amount along with interest @ 7% per annum from the date of filing of the claim petition till realization of the amount.

The cross-objections and the appeal are disposed of in above terms.

(AVNEESH JHINGAN)
JUDGE

10.4.2019
mk

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

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