

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4736 of 2014
DECIDED ON: MARCH 05, 2019

GAJJO KAUR AND OTHERS

.....APPELLANTS

VERSUS

NIRBHAI SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Brijender Singh, Advocate for
Mr. Ashish Gupta, Advocate
for the appellants.

Mr. G.S. Bawa, Advocate
for respondents No.1 and 2.

Mr. M.B. Jain, Advocate for
Mr. Punit Jain, Advocate
for the respondent-Insurance Company.

AVNEESH JHINGAN J. (ORAL)

The award dated 12.12.2011 passed by the Motor Accident Claims Tribunal, Patiala (for brevity 'the Tribunal') has been assailed by the legal heirs of Ralla Ram (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The widow and children of Ralla Ram are the appellants. The driver, owner and insurer (i.e. ICICI Lombard General Insurance Co. Ltd.) of car bearing registration No. PB-11-AL (T) 2095 (hereinafter referred to as 'offending vehicle'); have been arrayed as respondents no. 1 to 3 and mother of Ralla Ram has been arrayed as proforma respondent No.4 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 08.03.2010, Ralla Ram was driving his three wheeler. On the way, his three wheeler was hit by a rashly and negligently driven offending vehicle. As a result of the impact occupants of the three wheeler including Ralla Ram sustained injuries. Ultimately, Ralla Ram succumbed to the injuries. FIR No. 137, dated 08.03.2010 was registered at Police Station Sadar, Patiala.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded compensation of ₹7,22,000/- alongwith interest @ 6% per annum. The amount awarded included ₹5,000/- each for loss of estate and for funeral expenses and ₹10,000/- for loss of consortium.

In the claim petition, it was pleaded that the deceased was 48 years old and a driver of three wheeler and used to earn ₹6000/- to ₹8000/- per month. The claimants failed to substantiate the income of the deceased. The Tribunal assessed the monthly income of the deceased as ₹6000/-, 1/4th deduction for self-expenses was made and multiplier of 13 was applied.

Learned counsel for the appellants contends that no future prospects have been awarded and the amounts awarded under the conventional heads are on lower side.

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

The contention raised by learned counsel for the appellants deserves

acceptance.

There is no challenge to the loss of dependency i.e. ₹7,02,000/- calculated by the Tribunal. Having due regard to the decisions of the Supreme Court in National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009 and Hem Raj vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480; 10% future prospects are awarded, as the deceased was 50 years old at the time of accident and falls in the category of self employed or having fixed wages. 10% of ₹7,02,000/- is ₹70,200/-.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in Pranay Sethi's case (supra). The claimants are entitled to ₹15000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium. The amount under the conventional heads is enhanced by ₹50,000/-

The award dated 12.12.2011 is modified to the extent that amount of ₹7,22,000/- awarded by the Tribunal is enhanced by ₹1,20,200/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

MARCH 05, 2019

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No