

In the High Court of Punjab and Haryana at Chandigarh

FAO-213-2016 (O&M)

Date of Decision: February 25, 2019

Rajpati and others

... Appellants

Versus

Ombir and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. N.K. Malhotra, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate and
Ms. Manjeet Kaur, Advocate,
for respondent No.3.

Avneesh Jhingan, J.

The award dated 12.10.2015 passed by the Motor Accident Claims Tribunal, Rohtak (for short “Tribunal”) has been assailed by the legal heirs of deceased Jai Bhagwan seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short “Act”).

The brief facts of the case are that a motor vehicular accident took place on 11.09.2014. The accident was caused due to the rash and negligent driving of a vehicle bearing registration No. HR-63A/4756 (hereinafter referred to as the “offending vehicle”). Jai Bhagwan was going on a motor-cycle bearing registration No. HR-12H/3323. On his way, the motor-cycle was struck by the offending vehicle, as a result of the accident, Jai Bhagwan had sustained injuries and died at the spot.

In the claim petition, the Tribunal held that the accident was caused due to rash and negligent driving of the offending vehicle. It was proved that deceased was employed with Central Vehicle Depot, Delhi

Cantt. and was drawing a salary of ₹ 26,239/- per month. He was also getting a pension of ₹ 12,495/-, but it has come on record that even after his death, his widow was getting the same pension. The Tribunal calculated the compensation considering the monthly income as ₹ 26,239/-; 1/4th deduction was made for self expenses as deceased was survived by five dependents and a multiplier of 9 was applied as the deceased was more than 57 years of age at the time of accident. The Tribunal awarded a sum of ₹ 22,50,440/- along with interest at the rate of 7.5% per annum. The amount awarded included ₹ 1,00,000/- for loss of consortium and ₹ 25,000/- for funeral expenses.

Learned counsel for the appellants contends that no future prospects have been awarded and the income of the deceased assessed is on the lower side as the pension was considered while assessing the monthly income of the deceased.

Learned counsel for respondent no.3 argues that there is no loss to the widow as regard to the pension as she continued to get the same pension even after the death of Jai Bhagwan. She further argues that the amount awarded under the conventional heads are on the higher side and the same should be awarded as per decision of the Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and others, AIR 2017 SC 5157.***

Heard learned counsel for the parties and perused the paper book.

In the income assessed by the Tribunal, no interference is called for as it has been established before the Tribunal that the widow of the deceased was getting the same pension. The claimants have not disputed the

fact that the widow was not getting the same pension as was being received by Jai Bhagwan during his life time.

The contention of learned counsel for the appellants regarding future prospects deserves acceptance. Having due regard to the decision of Supreme Court in ***Pranay Sethi's case (supra)***, 15% future prospects are awarded as the deceased was 57 years of age and was having a permanent job. As there loss of dependency calculated by the Tribunal of ₹ 21,25,440/- is not being interfered, 15% of the said amount is awarded for future prospects i.e. ₹ 3,18,816/-.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded as per the decision of the Supreme Court in ***Pranay Sethi's case (supra)***. 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.

The award dated 12.10.2015 is modified to the extent that amount awarded of ₹22,50,440/- by the Tribunal is enhanced by ₹2,63,816/-.

The claimants shall be entitled to the enhanced amount of compensation along with interest @ 7.5 per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

February 25, 2019
vkd

(Avneesh Jhingan)
Judge

Whether reasoned / speaking : Yes

Whether reportable : Yes