IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2196 of 2016 (O&M)

Date of Decision: 05.02.2019

Rimpi Rani and others

.......Appellants

Versus

Bhupinder Singh and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tapish Gupta, Advocate
for the appellants.

None appeared for respondents No. 1 and 2 inspite of service.

Mr. Lalit Kumar, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

Legal heirs of Gurjit Singh @ Gurjit Nath have filed the present appeal against award dated 6.10.2015 passed by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal'). The appeal is for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act').

Appellants are widow and two minor children of deceased Gurjit Singh @ Gurjit Nath. Respondents No. 1 and 2 is the driver, owner of Mahindra Bolero Jeep No.PB-11-AP-5808 (for short 'offending vehicle') and respondent No. 3 (i.e. The New India Assurance Company Ltd.), is the insurer of the offending vehicle.

The brief facts necessary for adjudication of the present appeal are that a motor vehicular accident took place on 11.5.2014. Gurjit Singh @ Gurjit Nath was driving a motor cycle bearing registration No.PB-70-A-5005 and

Gurvinder Singh was the pillion rider. When they reached near village Kassiyana, the motor cycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, both the occupants of the motor cycle sustained injuries. They were taken to Rajindra Hospital, Patiala, on reaching the hospital, Gurjit Singh @ Gurjit Nath scummbed to injuries. FIR No. 73 dated 12.5.2014 was registered at Police Station Passiana, Patiala.

In the claim petition filed under Section 166 of the Act, the Tribunal after considering the facts and appreciating the evidence held that the accident was caused due to rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation but was awarded recovery rights.

It was proved before the Tribunal that the deceased was working as a Security Guard with the Patiala Central Co-op Bank Ltd. and was getting salary of ₹ 13,735/-; 1/4th deduction for self-expenses was made and multiplier of 17 was applied. The Tribunal awarded a sum of ₹ 23,26,405/-. The amount awarded included ₹ 1 lakh for loss of consortium, ₹ 25,000/- for funeral expenses and ₹ 1 lakh for loss of love and affection. The Tribunal ordered that the claimants shall be entitlted to interest at the rate of 6% per annum only in case the amount awarded is not paid within two months.

Learned counsel for the appellants contends that no future prospects have been awarded. His grievance is that the statutory interest under Section 171 of the Act has not been awarded and the Tribunal has ordered only conditional interest. His further grievance is that the rate of intrest of 6% is on lower side.

Learned counsel for the insurer defends the award and submits that the amount awarded under the conventional heads is on higher side and no amount is to be awarded for loss of love and affection.

There is no dispute between the parties with regard to loss of dependancy calculated by the Tribunal of ₹21,01,404/-.

The contention of learned counsel for the appellants that the future prospects should be awarded deserves acceptance in view of the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157.*** The deceased was below 40 years of age and was having a permanent job, 50% future prospects are awarded. 50% of ₹ 21,01,404 is ₹ 10,50,702/-

As the quantum of compensation is being revisited, it would be appropriate that the amount awarded under the conventional heads are to be awarded as per decision of the Supreme Court in Pranay Sethi's case (supra) and Rs.15,000/- each is awarded for loss of estate and funeral expenses and Rs.40,000/- is awarded for loss of consortium. No amount is awarded for loss of love and affection.

The amount awarded of ₹ 2,25,000/- under the conventional heads and for loss of love and affection is reduced to ₹ 70,000/-.

The net effect is that the amount awarded by the Tribunal is enhanced by ₹ 8,95,702/-.

The Tribunal has not given any reason for not awarding interest under Section 171 of the Act.

Section 171 of the Act is quoted below:

> ***171. Award of interest where any claim is allowed-****Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in*

> *addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.*

The Supreme Court in ***Dharampal and others Vs. U.P. State Road Transport Corporation 2008(12) SCC 208*** held as under:

> *"8. As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.*
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> *9. In **National Insurance Company Ltd. Vs. Keshav Bahadur, reported in 2004(2) RCR (Civil) 99: (2004) 2 SCC 370** this Court has held that the provisions require payment of interest in addition to compensation already determined. Even though the expression "may"is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.*
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> *10. Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest"*

Keeping in view the facts of the case and the bank rate prevaling at the time of accident, the claimants are held entitlted to amount of compensation including the enhanced compensation alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

05.02.2019
reema/pankaj

Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No