210

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.5847 of 2013
Date of Decision: 14.02.2019

Satish Rani

Appellant

Versus

Mangal Singh @ Massa and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Veneet Sharma, Advocate
for the appellant.

Ms. Manjeet Kaur, Advocate
for respondents No.1 and 2.

Mr. Ram Avtar, Advocate
for respondent No.3.

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<u>AVNEESH JHINGAN, J (Oral):</u>

The award dated 23.08.2013 passed by the Motor Accident Claims Tribunal, Hisar [for brevity 'the Tribunal'] in Petition No.151-MACT of 2012 has been assailed in appeal by the mother of Harish (deceased), seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. United India Insurance Company Ltd.) of Tata 1109 vehicle bearing registration No. PB-03V-1266 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts emanating from the record that on 17.04.2012, Harish alongwith Azharudin @ Jaeen was going to Railway Station on motorcycle to receive uncle of Harish. On the way, the motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, both the riders of the motorcycle sustained grievous injuries, they were taken to General Hospital, Hisar where they were declared dead by the Doctors.

A claim petition was filed by mother of Harish. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim petition, it was pleaded that deceased was 23 years old at the time of accident and was working at Ahuja Farm House, Mothsara and earning ₹15,000/- per month. The claimant failed to substantiate earning of the deceased, the tribunal assessed monthly income of the deceased as ₹5,000/- per month; ½ deduction for self-expenses was made and multiplier of '11' was applied, considering the age of claimant. The Tribunal awarded ₹3,80,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹15,000/- for funeral expenses, ₹10,000/- for loss of estate, ₹25,000/- for loss of love & affection.

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

Learned counsel for the appellant contends that no future prospects have been awarded and the Tribunal erred in applying multiplier as per the age of the claimant.

Learned counsel for the insurer while defending the award argues that amounts awarded under the conventional heads should be awarded as per decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and no amount should be awarded for loss of love & affection.

There is no dispute between the parties with regard to income assessed, age of the deceased and ½ deduction made for self-expenses.

Having due regard to the decisions of the Supreme Court in ***Pranay Sethi's*** case (supra) and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, 40% future prospects are awarded as the deceased was below 40 years and falls under the category of self-employed or person having fixed wages.

As the deceased was 23 years old at the time of accident, multiplier of '18' is to be applied in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21***. The multiplier is to be applied considering the age of the deceased and not of the claimant, is no longer *res-integra.*

The Supreme Court in the case of **Sube Singh and**

<u>another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18</u> has held as under:

> *"On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e. 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased. The legal position, however, is no more res integra. <u>In the case of Munna lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants."</u>*
>
> (*emphasis supplied)*

As the quantum of compensation is being re-visited, it would be appropriate that compensation under conventional heads are awarded as per decision of the Supreme Court in ***<u>Pranay Sethi's</u>*** case (supra). The claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount is to be awarded for loss of love & affection.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	5,000/-
40 % Future Prospects	2,000/-
Sub Total	7,000/-
1/2 deduction for self expenses	3,500/-
Monthly Dependency	3,500/-
Annual Dependency	42,000/-
Applying multiplier of '18'	**7,56,000/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Grand Total	**7,86,000/-**

The award dated 23.08.2013 is modified to the extent that amount of ₹3,80,000/- awarded by the Tribunal is enhanced to ₹7,86,000/-.

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

The appeal is allowed.

[AVNEESH JHINGAN]
JUDGE

February 14, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : Yes