IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 4501 of 2015
DATE OF DECISION :- April 22, 2019

Sushil Devi and others **...Appellants**

Versus

Vijender Singh and others **...Respondents**

F.A.O. No. 4502 of 2015

Sunita Devi and others **...Appellants**

Versus

Vijender Singh and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Manvinder Singh Dalal , Advocate for the appellants.

Mr. Harsh Aggarwal, Advocate
for respondent No. 3-Insurance Company.

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My this order shall dispose of two appeals bearing F.A.O. No. 4501 of 2015 and F.A.O. No. 4502 of 2015.

On account of death of Surender and Naresh Kumar in a road side accident which took place on 31.7.2014 in the area of Maida Mill Batta, Police Station Kalayat statedly on account of rash and negligent driving of vehicle Tata 407 bearing Registration No. HR-61-8680 by respondent no. 1 Vijender Singh, legal representatives of both the deceased had filed separate claim petitions under Section 166 of the Motor Vehicles Act, 1988. Legal representatives of Surender namely his widow Ms. Sushil Devi, aged about 30 years, minor daughter Preeti devi, aged about 12 years and minor son Sahil, aged about 8 years had brought claim petition bearing MACT Case No. 95 of 2014 against Vijender Singh, driver, Kuldeep Singh-owner and United India Insurance Company, Hansi-insurer of Tata 407 bearing Registration No. HR-61-8680 (hereinafter referred to as the offending vehicle) claiming compensation, whereas legal representatives of Naresh Kumar namely Smt. Sunita Devi, widow, minor daughters Anju Devi, Manju Devi, Kafi, Mafi, aged about 16 years, 14 years, 11 years and 8 years respectively, minor son Naveen, aged about 6 years and mother Smt. Lichhami Devi, aged about 71 years had filed claim petition bearing MACT Case No. 96 of 2014 against those very respondents.

After contest the Motor Accident Claims Tribunal accepted both the claim petitions and awarded compensation of Rs.9,78,200/- in MACT Case No. 95 of 2014 and compensation to the tune of Rs.10,88,600/- in MACT Case No. 96 of 2014. Interest at the rate of Rs.7.5% per annum was also granted from the date of filing of the petitions till realization. All the respondents were made liable jointly and severally to pay the said amount. The claimants in both the claim petition were not satisfied with the amount of compensation awarded and they have filed separate appeal before this Court, notice of which was given to the respondents and only the respondent-Insurance Company has appeared through counsel to offer a contest.

I have heard learned counsel for the parties besides going through the record.

Both the counsel agree that the appeals be decided in terms of judgment of the Apex Court '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***'.

Taking up the appeal bearing FAO No. 4501 of 2015 titled 'Sushil Devi and others versus Vijender Singh and others' regarding death of Surender, a perusal of the award goes to show that the Tribunal while taking up the age of the deceased to be 35 years has taken his monthly income to be Rs.4600/- per month from avocation of a casual labourer. However, the Tribunal has considered the minimum wages prevailing in the year 2014 and taking into view that some days might be as off has taken Rs.4600/- per month to be the monthly income. However, in terms of minimum wages prevalent w.e.f. 1.7.2014 in terms of circular issued by Labour Commissioner, Haryana the minimum wages for an unskilled labourer were Rs.5639.50 which can be rounded of to Rs.5640/-. This fact is not disputed by learned counsel for the Insurance Company even. Doing that the annual income of the deceased comes out to Rs.5640x12=Rs.67680/-. In view of ratio of authority '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***' in such an eventuality 40% of the amount is to be added towards future prospects. Adding towards future prospects the amount come out to Rs.94752/- (67680+40%). Keeping in view the number of dependents, $1/3^{rd}$ of the amount is to be deducted towards personal expenses of the deceased, therefore, annual dependency of the claimants comes out to Rs.63168/-. The Tribunal has correctly used the multiplier of 16. Doing that the total loss of dependency comes out to Rs.10,10,688/- (63,168 x 16). The claimants are entitled to get an amount of Rs.15,000/- as funeral expenses, Rs.15,000/- towards loss of estate and Rs.40,000/- towards loss of consortium. Adding this amount the total amount of compensation comes out to Rs.10,80,688/-(10,10,688+70,000). The Tribunal has awarded compensation of Rs.9,78,200/-. In that way the the enhanced amount of compensation on account of death of Surender comes to Rs.1,02,488/-. The additional compensation of Rs.1,02,488/- with interest at the rate of 7.5% per annum from the date of filing of the appeal till actual realization along with cost of the appeal is awarded to the claimants payable by the respondents jointly and severally.

Taking up the appeal bearing FAO No. 4502 of 2015 Sunita Devi and others versus Vijender Singh and others regarding death of Naresh a perusal of the award goes to show that the Tribunal while taking up the age of the deceased to be 36 years has taken monthly income to be Rs.4600/- per month as of a casual labourer. However, the Tribunal has considered the minimum wages prevailing in the year 2014 and taken into view some days as off and working days has taken Rs.4600/- per month to be monthly income. However, in terms of minimum wages prevalent w.e.f. 1.7.2014 in terms of circular issued by Labour Commissioner, Haryana the minimum wages for an unskilled labourer were 5639.500 which can be rounded to Rs.5640/-. This fact is not disputed by learned counsel for the Insurance Company even. Therefore, monthly income of the deceased is taken to be Rs.5640/-. Doing that the annual income of the deceased comes out to Rs.5640x12=Rs.67680/-. In view of ratio of authority '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***' in such an eventuality 40% of the amount is to be added towards future prospects. Adding towards future prospects the amount come out to Rs.94752/-. Keeping in view the number of dependents 1/5th of the amount is to be deducted towards personal expenses of the deceased, therefore, annual dependency of the claimants comes out to Rs.75802/-. The Tribunal has correctly used the multiplier of 15. Doing that the total loss of dependency comes out to Rs.11,37,030/- (75802 x 15). The claimants are entitled to get an amount of Rs.15,000/- as funeral expenses, Rs.15,000/- towards loss of estate and Rs.40,000/- towards loss of consortium. Adding this amount the total amount of compensation comes out to Rs.12,07,030/- (11,37,030+70,000). The Tribunal has awarded compensation of Rs.10,88,600/-. In that way the enhanced amount of compensation on account of death of Naresh Kumar comes to Rs.1,18,430/-. The additional compensation of Rs.1,18,430/- with interest at the rate of 7.5% per annum from the date of filing of the appeal till actual realization along with cost of the appeal is awarded to the claimants payable by the respondents jointly and severally. The other terms and conditions with regard to apportionment and payment amongst the claimants shall be the same as given in the impugned award.

With such modifications, both the appeals are allowed partly.

(H.S. MADAAN)
JUDGE

April 22, 2019
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No