207

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

FAO No.6140 of 2014
Date of Decision: 17.01.2019

Kanta Devi @ Kanta and another

Appellants

Versus

Santokh Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vishal Munjal, Advocate
for the appellants.

Mr. Gagandeep Singh, Advocate
for respondent No.1.

None for respondent No.2.

Mr. Puneet Sharma, Advocate
for respondent No.3.

****

AVNEESH JHINGAN, J (Oral):

The appellants are the parents of Lovekesh Mahajan, who lost their son in a motor vehicular accident. The appeal has been filed being aggrieved of the award dated 04.03.2014 passed by the Motor Accident Claims Tribunal, Gurdaspur [for brevity 'the Tribunal']. The grievance raised in the appeal is that the Tribunal erred in awarding lump sum compensation and not applying the multiplier method for calculating the compensation.

The respondents in the appeal are driver, owner and insurer [i.e. The New India Assurance Company Ltd.] of bus bearing registration No.PB-06E-2898 [hereinafter referred to as 'offending vehicle'].

The facts emanating from the record are that on 28.06.2011, Lovekesh Mahajan was going on his motorcycle bearing registration No. PB-06J-5370. He was accompanied by his father and cousin brother on a separate vehicle. When they reached near Kotli Muglan, the motorcycle was struck by a rashly and negligently driven offending vehicle. As a result of the accident, Lovekesh Mahajan sustained grievous injuries and was taken to Chohan Hospital, Kotli Muglan from where he was taken to Ravi Hospital, Pathankot. He succumbed to the injuries on 06.07.2011. FIR No.62, dated 28.06.2011 was registered at Police Station Kanuwan.

A claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act']. The claimants pleaded that the deceased was 17½ years old at the time of accident. He was a matriculate and was running a shop from where he was earning ₹25,000/- per month. It was further stated that he was studying in Class 12th at Govt. School, Dinanagar. But, the claimants failed to substantiate the occupation and monthly earning of the deceased.

The Tribunal after considering the fact that he was 17½ years old, opined that he would have in any case started earning after few years, awarded a lump sum compensation amounting to ₹3,00,000/- alongwith interest @ 8% per annum.

Heard learned counsel for the parties and perused the record.

Learned counsel for the appellants contends that the Tribunal erred in awarding lump sum compensation rather than applying multiplier method. He further contends that the deceased was a matriculate and was a student of Class 12th. In absence of any proof regarding his earning, reliance should have been placed on minimum wages prevalent in the State of Punjab at the time of accident. He concludes his arguments by stating that compensation should be awarded by applying the multiplier method.

Learned counsel for the insurer argues that the deceased was just a student of Class 12th and was not earning anything. In such circumstances, it would not be appropriate to apply the multiplier method as his earning was not proved.

The contention raised by learned counsel for the appellant deserves acceptance. The aim of awarding the compensation is that, so far as possible a person suffering by a wrong act of another person is placed in a position, in which he would have been, had the harm not been done. The endeavour is that the sufferer receives full compensation, no more but certainly no less. The compensation can only be awarded for the harm which money can redress. There are certain losses which cannot be compensated by any amount of money. The duty of the Court would be to arrive at just and equitable compensation. One of the logical and reliable methods is to rely upon multiplier method to arrive at compensation to be awarded. The Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** has provided a table for multiplier to be applied as per the age of the deceased.

Thus, the compensation is awarded to the claimants by applying the multiplier method. So far as the quantum of compensation to be awarded is concerned, there is no dispute that the deceased was 17½ years old at the time of accident. He was matriculate and it was pleaded that he was a student of Class 12th. The claimants were not able to substantiate the fact that he was running a shop and was earning ₹25,000/- per month. In such circumstances, reliance can be placed on the minimum wages prevalent in the State of Punjab at the time of accident. As the deceased was a student of Class 10th, it would not be appropriate to equate him with an unskilled labourer. The minimum wages of an unskilled labourer in the State of Punjab at the relevant time were ₹3,842/-. The monthly income of the deceased is assessed as ₹4,100/-.

Having due regard to the decisions of the Supreme Court in cases of ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,*** 40% future prospects are awarded.

The deceased was unmarried at the time of accident and was aged 17½ years, thus, in consonance with the decision of the

Supreme Court in ***<u>Sarla Verma's</u>*** case (supra), ½ deduction for self expenses is made and multiplier of '18' is applied. The appellants are awarded ₹15,000/- each for funeral expenses and for loss of estate.

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

Particulars	***Amount (in ₹)***
Monthly income of the deceased as assessed	4,100/-
40 % Future Prospects	1,640/-
Sub Total	5,740/-
½ deduction for self expenses	2,870/-
Monthly Dependency	2,870/-
Annual Dependency	34,440/-
Applying multiplier of '18'	**6,19,920/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Grand Total	**6,49,920/-**

The award dated 04.03.2014 is modified to the extent that amount of ₹3,00,000/- awarded by the Tribunal is enhanced to ₹6,49,920/-.

The claimants shall be entitled to the enhanced amount alongwith interest as awarded by the Tribunal, from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

January 17th, 2019
pankaj baweja

1. Whether speaking/reasoned : Yes/ No
2. Whether reportable : Yes/ No