IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

261 FAO-4962-2015 (O&M)
Date of Decision : 04.09.2019

Archna Mantri and others .... Appellants

Versus

Vijay Kumar and others .... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Ashwani Talwar, Advocate and
Mr.Aditya Ramyal, Advocate
for the appellants.

Mr.V.K.Garg, Advocate
for respondent No.3/Insurance Company.

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RAMENDRA JAIN, J. (ORAL)

The claimants have filed the instant appeal for enhancement of compensation, modifying the impugned award of Motor Accident Claims Tribunal, Panipat (for short- 'the Tribunal') dated 11.02.2015.

Briefly, on 06.05.2013, deceased Vivek Mantri, aged around 32 years, a motorcyclist, followed by his two brother namely Anurag and Gaurav, when, reached on the culvert near Truck Union, Panipat, offending truck bearing registration No. HR-58-6550 driven by respondent No.1 in a rash and negligent manner struck against his motorcycle from behind. As a result thereof, he fell down on the road and wheel of the offending truck crossed over his body. Resultantly, he died on the spot.

Respondent No.1 fled away from the spot. FIR No.329 dated 07.05.2013 was registered at Police Station, Chandni Bagh, Panipat qua the accident in question.

With these broad submissions, claimants being his widow, minor daughters and parents filed a claim petition under Section 166 of the Motor Vehicles Act (for short, 'the Act') for grant of ₹50 lakhs as compensation against the death of Vivek Mantri.

After holding trial, learned Tribunal partly accepting the claim petition, awarded compensation of ₹11,52,000/- to appellants/claimants vide impugned award dated 11.02.2015.

Both the sides are *ad idem* that this appeal has to be decided in accordance with the principles laid down in ***National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

However, learned counsel for the appellants raising grouse about the monthly income of the deceased taken by the Tribunal at ₹8,000/- contends that two income tax returns of the deceased were produced during trial i.e Ex.P8 for the assessment year 2011-12 and Ex.P7 for the subsequent year 2012-13. In the return Ex.P8 annual income of the deceased was shown as ₹1,85,000/-. and in the Ex.P7 as ₹1,78,000/-

Learned Tribunal failed to appreciate that both the returns were filed prior to the death of deceased on 06.05.2013, thus were genuine documents.

Refuting the above submissions, learned counsel for the Insurance Company submits that in the return Ex.P8, income of the deceased from salary was shown of ₹1,44,000/- and ₹59,740/- from other sources but those other sources were not disclosed. Therefore, income of the deceased cannot be taken into account more than ₹1,44,000/-.

Having given thoughtful consideration to the rival submissions, this Court is in complete agreement with learned counsel for the Insurance Company that income of deceased cannot be taken more than ₹1,44,000/-per annum i.e. (₹12,000x12).

Learned counsel for respondent No.3/Insurance Company has furnished calculation (Mark A). As per the same, the total amount of compensation payable to claimants-appellants, according to ***Pranay Sethi's case (supra),*** comes to ₹24,89,200/- less ₹11,52,000/- already awarded by the learned Tribunal. Meaning thereby, the claimant-appellants are entitled to ₹13,37,200/- more, over and above the compensation awarded by the learned Tribunal.

Learned counsel for the appellants has not been able to controvert or point out any infirmity in the above calculation (Mark-A). Hence, the same is accepted.

In view of the above, the claimant-appellants are held entitled to compensation of ₹13,37,200/-more, over and above the amount of ₹11,52,000/- already awarded by the learned Tribunal, vide Award impugned herein. Respondent No. 3-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% from the date of institution of claim petition till realization.

The instant appeal stands disposed of, accordingly.

September 04, 2019 (RAMENDRA JAIN)
anju JUDGE

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