In the High Court of Punjab and Haryana at Chandigarh

FAO-6022-2015
Date of Decision: February 04, 2019

Razia and others

… Petitioners

Versus

Satwinder Singh and others

… Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sahil Abhi, Advocate,
for the appellants.

Mr. Vaibhav Sehgal, Advocate,
for respondent No.1.

Mr. Vinod Chaudhri, Advocate,
for respondent No.3.

Mr. Ram Avtar, Advocate,
for respondent No.5.

***Avneesh Jhingan, J.* (Oral)**

The wife and three minor children of Soni Khan are in appeal seeking enhancement of compensation awarded under Section 166 of the Motor Vehicle Act, 1988 (for short 'the Act') by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the "Tribunal") vide award dated 27.04.2015 on account of death of Soni Khan in a motor vehicular accident.

The facts in the present appeal are not in dispute. A motor vehicular accident took place on 02.03.2013 involving truck bearing registration no. Pb-11AQ-8056 and Truck Tralla bearing registration no. PB-10CX-1335 (hereinafter referred to as the 'offending vehicle'). The accident took place as a result of rash and negligent driving of the offending the vehicle. Respondents no.1 to 3 were held jointly and severally liable to pay compensation. The accident proved fatal for Soni Khan. His age was 33 years at the time of accident. FIR No. 33 dated 03.03.2013 was registered at Police Station Sadar, Khanna.

The Tribunal after considering the facts and appreciating the evidence adduced, assessed the monthly earning of the deceased as ₹ 9000/-; 1/4th deduction was made for self expenses; multiplier of 16 was applied. The Tribunal awarded a sum of ₹ 17,48,000/- along with interest @ 6% per annum. The amount awarded included ₹ 20,000/- under the conventional heads.

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

Learned counsel for the appellants contends that no future prospects have been awarded and the amounts awarded under the conventional heads are on the lower side. His grievance is that the interest awarded @ 6% per annum is on lower side.

Learned counsels for the respondents were not able to raise any serious dispute in view of law laid down by the Apex Court. However, they contend that though the Tribunal assessed the monthly income of the deceased as ₹ 9000/- but while calculating compensation took it as ₹ 12,000/-.

There is no dispute between the parties with regard to the following facts:-

a) Age of the deceased as 33 years at the time of accident;

b) the monthly income assessed as ₹ 9000/-;

c) 1/4th deduction made for self expenses;

d) deceased survived by four dependents;

e) multiplier of 16 applied in consonance with the Supreme Court's decision in ***Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil), 77;*** *and*

f) that there is a calculation error in award as after assessing income @ ₹ 9,000/-, Tribunal made calculation @ ₹ 12,000/-.

The contention raised by the learned counsel for the appellants with regard to awarding of future prospects and enhancing amounts awarded under conventional heads deserves acceptance in view of Supreme Court's decision in ***National Insurance Company Ltd. 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 and ₹ 70,000/- is awarded under conventional heads i.e. ₹ 15,000/- each for loss of estate and funeral expenses and ₹ 40,000/- for loss of consortium.

From the perusal of the award and considering the arguments raised by the parties, it is evident that there is a calculation error in the award. The monthly income of the deceased was assessed as ₹ 9000/- which is not in dispute. While calculating compensation, the Tribunal considered figure of ₹ 12,000/- and awarded compensation accordingly. As the quantum of compensation is being revisited in the appeal, the said calculation error is also being taken care of.

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

Sr. No.	Particulars	Amount awarded in ₹
1.	Monthly Income	9,000/-
2.	40% Future Prospects	3,600/-
3.	1/4th deduction for self expenses	3,150/-
4.	Applying multiplier of 16 (9450x12x16=18,14,400)	18,14,400/-
5.	Conventional head (Rs.15000/- each for loss of estate and funeral expenses and Rs.40,000/- for loss of consortium	70,000/-
6.	Total	18,84,400/-

The Tribunal awarded interest @ 6% per annum on the compensation awarded. Considering the bank rate of interest in the year 2013 and the fact that the deceased was survived by young widow and three minor children, the interest rate awarded by the Tribunal is enhanced to 7.5 % per annum.

The award dated 27.04.2015 is modified to the extent that amount awarded of ₹ 17,48,000/- by the Tribunal is enhanced to ₹ 18,84,400/-.

The claimants shall be entitled to the entire compensation along with interest @ 7.5 % per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

February 04, 2019 **(Avneesh Jhingan)**
vkd **Judge**

Whether reasoned / speaking : Yes

Whether reportable : Yes