IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 7946 of 2014
DATE OF DECISION :- September 19, 2019

Jagdish and another **...Appellants**

Versus

Rakesh Malik and others **...Respondents**

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

Present:- Mr. Arun Singal, Advocate for the appellants.

Mr. Amrinder Singh Sidhu, Advocate for respondent No. 3.

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On account of death of Bharat, aged about 23-24 years, in a motor vehicular accident, which took place on 19.4.2012 at about 9.30 A.M., in the area of G.T. Road from the side of village Nangal Kheri towards Sector 29, Panipat, statedly on account of rash and negligent driving of Car bearing registration No. HR-06Y-1006 by respondent No. 1 Rakesh Malik, legal representatives of deceased namely his father Jagdish and mother Smt. Chanda Devi, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Rakesh Malik-driver of Car bearing registration No. HR-06Y-1006, Nishant Raj-owner and ICICI Lombard General Insurance Co. Ltd, Panipat-insurer of Car bearing registration No. HR-06Y-1006 (hereinafter referred to as the offending Car), claiming compensation.

On notice, all the three respondents appeared and offered a contest.

Thereafter hearing arguments advanced by learned counsel for the parties, the Motor Accident Claims Tribunal, Panipat vide Award dated 1.3.2014 awarded compensation of Rs.1,95,000/- with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization with a direction that if amount was not deposited within two months from passing of the Award then the respondents shall be liable to pay interest at the rate of 9% per annum. The liability was held to be joint and several. The amount of compensation was ordered to be apportioned equally amongst both the claimants.

The claimants were not satisfied with the compensation awarded to them by the Motor Accident Claims Tribunal, Panipat and have brought the present appeal seeking enhancement of compensation of the said amount.

Notice of the appeal was given to the respondent-Insurance Company which has put in appearance.

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

Learned counsel for the appellants has put forward two fold arguments. Firstly that though the Tribunal has taken age of the deceased to be 23-24 years and his monthly income to be Rs.4500/- but no amount has been added towards future prospects and second argument that the multiplier was used keeping in view the ages of the claimants and not age of the deceased which was so done wrongly. Whereas, learned counsel for the Insurance Company has contended that amount of compensation awarded is just and equitable. However, I find force in the contentions raised by counsel for the appellants.

In terms of the judgment '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009'*** where age of the deceased was below 40 years then addition of 40% is to be made towards future prospects. Doing that the monthly income of the deceased is worked out to be Rs.6300/-(4500 + 1800).

Since the deceased was a bachelor, 50% of the amount is to be deduced on account of personal and living expenses of the deceased. Doing that the dependency of the claimants comes out to Rs.3150/- per month. The annual dependency comes out to Rs.37,800/- (3150 x 12). The Tribunal had fallen in error in applying the multiplier keeping in view the ages of the claimants. In terms of the judgment '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009'*** it has been clarified that the age of the deceased should be the basis for applying the multiplier. It being so, in view of land mark authority ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77"*** keeping in view the age of the deceased at the time of accident multiplier of 18 is required to be applied. Doing that the total compensation comes out to Rs.6,80,400/- (37,800 x 18). The claimants are entitled to get Rs.15,000/- as funeral expenses and Rs.15,000/- on account of loss of estate under conventional Heads. In that way total compensation comes out to Rs.7,10,400/-. The Tribunal has awarded compensation of Rs.1,95,000/-. In that way, the enhanced amount of compensation comes out to Rs.5,15,400/- (7,10,400 – 1,95,000), which is awarded to the claimants. The liability to pay such compensation shall be joint and several for all the three respondents. The amount of enhanced compensation shall be apportioned amongst both the claimants in equal shares and they shall be entitled to get interest at the rate of 7.5% per annum from the date of filing of the petition till actual realization.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

September 19, 2019
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No