IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6875 of 2015
DECIDED ON: MARCH 20, 2019

SURINDER KAUR AND OTHERS

.....APPELLANTS

VERSUS

KARAN SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ithlesh, Advocate for
Mr. Gurjit S. Latheri, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. Abhimanyu Batra, Advocate
for respondent No.3.

*****

AVNEESH JHINGAN J. (ORAL)

The award dated 09.12.2014 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (for brevity 'the Tribunal') has been assailed by the legal heirs of Sukhdev Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The widow, two minor children and mother of the deceased are the appellants. The driver of car bearing registration No. PB-11-AQ-7744 (hereinafter referred to as the 'offending vehicle'), owner and insurer (i.e. Bharti

Axa General Insurance Company Ltd.) of the offending vehicle have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum of accident is not disputed by the parties. A motor vehicular accident took place on 07.11.2013, which proved fatal for Sukhdev Singh aged 42 years. FIR No. 91, dated 07.11.2013 was registered at Police Station Mulepur.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to rash and negligent driving of the offending vehicle. The driver, owner and insurer were held jointly and severally liable to pay the compensation. The Tribunal awarded compensation of ₹7,55,000/- alongwith interest @ 7% per annum. The amount awarded included ₹1,00,000/- for loss of consortium and ₹25,000/- for funeral expenses.

In the claim petition, it was pleaded that the deceased was working as Munshi at Rahu Nath BKO Brick Kiln and was earning ₹15,000/- per month. It was also pleaded that he was also doing agriculture and dairy farming and was earning ₹20,000/- per month therefrom. But the claimants failed to prove the occupation and earning of the deceased. Certain 'J' forms issued under The Punjab Agricultural Produce Markets Act, 1961 were produced but the same were found in the name of Baldev Singh, hence, were not found worth reliance. The Tribunal assessed the monthly income of the deceased as ₹5000/-, 1/4th deduction for self-expenses was made and multiplier of '14' was applied.

Heard learned counsel for the parties and perused the record.

Learned counsel for the appellants contends that the Tribunal erred in assessing the monthly income of the deceased as ₹5000/-, which is even less than the minimum wages prevalent in the State for an unskilled labourer. His grievance is that no future prospects have been awarded.

Learned counsel for the insurer contends that the Tribunal has rightly assessed the monthly income of the deceased as ₹5000/-, as claimants failed to prove the monthly earning of the deceased. He further contends that the amount under the conventional heads be awarded in consonance with the decision of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi and others;*** ***2017 (4) RCR (Civil) 1009.***

In the claim proceedings it was pleaded that the deceased was working as a Munshi, a*lbeit,* claimants failed to substantiate the occupation and monthly income of the deceased. Having clue from the minimum wages prevalent in the State, his monthly income is assessed as ₹6600/-.

Having due regard to the decisions of the Supreme Court in ***Parnay Sethi's*** case (supra) and ***Hem Raj vs. Oriental Insurance Company*** Ltd. ***2018 (2) PLR 480;*** 25% future prospects are awarded, as the deceased was in the age group of 40-50 and falls in the category of self employed or having fixed wages.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra). The claimants are entitled to ₹15000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium.

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

	Head	**Compensation awarded**
(i)	Monthly income	₹ 6600/- per month
(ii)	Future prospects at 25%	₹ 1650/-
(iii)	Total Income	₹ 8250/- per month
(iv)	Deduction of personal expenses	₹ 2063/- (i.e. 1/4th of total income)
(v)	Multiplier	14 (as per age of deceased)
(vi)	Loss of income	6187x12x14= ₹10,39,416/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of consortium	₹ 40,000/-
	Total Compensation awarded	₹11,09,416/-

The award dated 09.12.2014 is modified to the extent that amount of ₹7,55,000/- awarded by the Tribunal is enhanced to ₹11,09,416/-. The claimants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

Accordingly, the appeal is allowed.

(AVNEESH JHINGAN)
JUDGE

MARCH 20, 2019
sham

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No