IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 7272 of 2015
DECIDED ON: APRIL 11, 2019

RAJNI AND OTHERS

APPELLANTS

VERSUS

DARSHAN KUMAR AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gaurav Tyagi, Advocate for
Mr. D.K. Gupta, Advocate
for the appellants.

Mr. Karminder Singh, Advocate
for respondent No.3-Insurance Company.

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AVNEESH JHINGAN, J (Oral):

The award dated 17.04.2015 passed by the Motor Accident Claims Tribunal, Pathankot (for brevity 'the Tribunal') has been assailed by the widow, minor son and mother of Bodh Raj (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, registered owner and insurer (i.e. National Insurance Company Ltd.) of truck bearing registration No. PB-06-E-9650 (hereinafter referred to as '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 27.11.2014. The accident proved fatal for Bodh Raj, aged 37 years. FIR No. 105, dated 27.11.2014 was registered at Police Station.

A claim petition was filed under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim petition, it was claimed that the deceased was a registered medical practitioner and was earning ₹15,000/- per month. Claimants failed to produce any evidence with regard to the fact that the deceased was a registered medical practitioner. They also failed to prove the monthly earning of the deceased. The Tribunal assessed the monthly earning of the deceased as ₹5000/-; 1/4th deduction for self-expenses was made and multiplier of '13' was applied.

The Tribunal awarded a sum of ₹9,00,000/- alongwith interest @ 6% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹1,00,000/- each for loss of consortium to the widow and for loss of love and affection.

Heard learned counsel for the parties and perused the record produced by them.

Learned counsel for the appellants raises following grievances:-

1. No future prospects have been awarded;

2. Multiplier of '13' has wrongly been applied by the Tribunal instead of '15', as the deceased was 37 years old at the time of accident.
3. The Tribunal awarded interest at lower rate.

Learned counsel for the insurer while defending the award resisted any further enhancement. He argues that the Tribunal erred in making 1/4th deduction for self-expenses, as the deceased was survived by three dependants. His grievance is that the amounts awarded under the conventional heads are on higher side and no amount be awarded for loss of love and affection.

There is no challenge to the monthly income assessed by the Tribunal

Having due regard to the decisions of the Supreme Court in ***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 as the deceased was in the age group of 30-40 and fell in the category of self-employed or a person having established income.

The Tribunal erred in applying the multiplier of '13' after considering the deceased in the age group of 35-40. In consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** multiplier of '15' is applied.

The deduction for self-expenses is to be made in consonance with the decision of Supreme Court in ***Sarla Verma's*** case (supra). 1/3rd deduction for self-expenses is made, as the deceased was survived by three dependants only.

As the quantum of compensation is being revisited, it would be appropriate that amounts under the conventional heads are awarded as per decision of the Supreme Court in ***Pranay Sethi's*** case (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- for loss of consortium to the widow. No amount is awarded for loss of love and affection.

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

	Head	**Compensation awarded**
(i)	Monthly Income	₹ 5000/- per month
(ii)	Future prospects at 40%	₹ 2000/- per month
(iii)	Total Income	₹ 7000/- per month
(iv)	Deduction of personal expenses	₹ 2333/- (i.e. 1/3rd of total income)
(v)	Multiplier	15 (as per age of deceased)
(vi)	Loss of income	4667x12x15= ₹8,40,060/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of consortium	₹ 40,000/-
	Total Compensation awarded	₹9,10,060/-

The award dated 17.04.2015 is modified to the extent that amount of ₹9,00,000/- awarded by the Tribunal is enhanced to ₹9,10,060/.

The Tribunal awarded the interest @6% per annum. The accident is of the year 2014, in order to give just and equable compensation and considering the bank's rate prevailing at the relevant time, the claimants shall be entitled to entire compensation alongwith interest @ 7% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is allowed.

(AVNEESH JHINGAN)
JUDGE

APRIL 11, 2019
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Whether speaking/reasoned ***Yes/No***
Whether reportable ***YesNo***