IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1265 of 2017
Date of decision: 6.5.2019

Kuldeep Singh and another
.. Appellants

v.

Bijender and others
.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Bakshi, Advocate for the appellants.
Ms. Vandana Malhotra, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 5.12.2016 passed by the Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') has been assailed by the parents of Sumit seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The respondents in the appeal are the driver of tractor bearing registration No. HR-15B/8408 (hereinafter referred to as 'the offending vehicle'), owner and the insurer (i.e. TATA AIG Insurance Company Ltd.) of the offending vehicle.

There is no dispute with regard to the factum of accident. A motor vehicular accident took place on 29.12.2014. The accident proved fatal for Sumit, aged 21 years. The accident was result of rash and negligent driving of the offending vehicle. FIR was registered. The owner, driver and the insurer were held jointly and severally liable to pay the compensation.

In the claim petition filed, it was pleaded that the deceased was holding a diploma for mobile repair and passed efficiency and physical standard tests for recruitment as Constable in the police but was not issued appointment letter. The claimants failed to prove the monthly earning of the deceased. The Tribunal treating him to be a skilled labourer assessed the monthly earning as ₹7,500/-, ½ deduction for self expenses was made as the deceased was bachelor and multiplier of '17' was applied. The Tribunal awarded a sum of ₹9,35,000/- along with interest @ 9% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹1,00,000/- on account of loss of love and affection.

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

Learned counsel for the appellants argues that no future prospects have been awarded and no amount has been awarded for loss of estate.

Learned counsel for the insurer argues that the amount awarded on account of funeral expenses is on the higher side and no amount be awarded for loss of love and affection.

Having due regard to the decisions of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157** and **Hem Raj v. Oriental Insurance Company Ltd., 2018(2) PLR 480** as the deceased was below 40 years and fell in the category of self employed or person having fixed wages, 40% future prospects are awarded. As there is no challenge to the loss of dependency i.e. ₹8,10,000/- calculated by the Tribunal, 40% of the said amount i.e. ₹3,24,000/- is awarded for future prospects.

As the quantum of compensation is being re-visited, the amounts awarded under the conventional heads are made in consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra).** The claimants are awarded ₹15,000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of love and affection.

The net result is that the amount awarded by the Tribunal is enhanced by ₹2,29,000/-. The claimants shall be entitled to the enhanced amount along with interest as awarded by the Tribunal.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

6.5.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No