IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 7995 of 2016
DECIDED ON: FEBRUARY 20, 2019

MANPREET KAUR AND OTHERS

.....APPELLANTS

VERSUS

RAKESH KUMAR AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Kunal Vinayak, Advocate
for the appellants.

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

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AVNEESH JHINGAN J. (ORAL)

Learned counsel for the appellants submits that the liability is joint and several, hence, respondent No.3 is the only contesting respondent.

The award dated 29.02.2016 passed by the Motor Accident Claims Tribunal, Tarn Taran (for brevity 'the Tribunal') has been assailed by the legal heirs of Ranjit Singh 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 Ranjit Singh are the appellants. The driver, owner and insurer (i.e. National Insurance Company Ltd) of truck bearing registration No. PB-06-Q-7676 (hereinafter referred to as 'offending vehicle'); have been arrayed as respondents no. 1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 11.12.2014, Ranjit Singh was coming back home on his bicycle, o+9+9+n his way he was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he fell down and got crushed beneath the offending vehicle and died at the spot. FIR No. 459, dated 12.12.2014 was registered at Police Station Tarn Taran.

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 of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded compensation of ₹9,41,000/- alongwith interest @ 6% 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 30 years old at the time of accident. The Tribunal assessed the monthly income of the deceased as ₹6000/- by treating him to be an un-skilled labourer, as the claimants failed to substantiate the occupation and earning of the deceased. The Tribunal made 1/3rd deduction for self-expenses and multiplier of 17 was applied.

Learned counsel for the appellants contends that the Tribunal wrongly assessed the monthly income of the deceased as ₹6000/-, as even the minimum wages for an unskilled labourer prevalent in the State at the time of accident were ₹6660/-. His grievance is that no future prospects have been awarded and no amount has been awarded for loss of estate. The challenge is to 1/3rd deduction made for self-expenses. He further submits that the rate of interest awarded by the Tribunal is on the lower side and the same was awarded from the date of passing of the award and not from filing of the claim petition.

Learned counsel for the insurer defends the award and resisted any further enhancement. He further contends that the amounts awarded under the conventional heads are on higher side.

The contention raised by learned counsel for the appellants deserves acceptance.

In the cases where the claimants failed to prove the occupation and monthly earning of the deceased, the safest yardstick would be to rely upon the minimum wages prevalent in the State at the time of accident and the minimum wages prevalent in the State for an unskilled labourer were ₹6660/-. The same would be considered for awarding compensation.

Having due regard to the decisions of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi and others;*** ***2017 (4) RCR (Civil) 1009*** and ***Hem Raj vs. Oriental Insurance Company*** Ltd. ***2018 (2) PLR 480;*** 40% future prospects are awarded, as the deceased was below 40 years and is covered in the category of self employed or having fixed wages.

In consonance with the decision of the Supreme Court in ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another;*** ***(2009) 6 SCC 121,*** 1/4th deduction for self-expenses is to be made, as the deceased was survived by four dependants.

There is no dispute between the parties with regard to the age of the deceased and multiplier applied of 17.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are to be awarded in consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra). 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 afore-said discussion, the compensation is re-calculated as under:

	Head	**Compensation awarded**
(i)	Monthly Income	₹ 6660/- per month
(ii)	Future prospects at 40%	₹ 2664/- per month
(iii)	Total Income	₹ 9324/- per month
(iv)	Deduction of personal expenses	₹ 2331/- (i.e. $1/4^{th}$ of total income)
(v)	Multiplier	17 (as per age of deceased)
(vi)	Loss of income	6993x12x17= ₹14,26,572/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of consortium	₹40,000/-
	Total Compensation awarded	₹14,96,572/-

The award dated 29.02.2016 is modified to the extent that amount of ₹9,41,000/- awarded by the Tribunal is enhanced to ₹14,96,572/-.

There is no reason given by the Tribunal for awarding interest from the date of passing of award. The interest to be awarded under Section 171 of the Act is statutory in nature. Rather, it should from the date of filing of the petition. The appellants shall be entitled to the entire amount including the enhanced amount alongwith 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 afore-said terms.

(AVNEESH JHINGAN)
JUDGE

FEBRUARY 20, 2019
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Whether speaking/reasoned: ***Yes / No***
Whether reportable : ***Yes / No***