IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 8023 of 2016
DATE OF DECISION :- December 09, 2019

Kulwinder Kaur and others **...Appellants**

Versus

Sita Singh and others **...Respondents**

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

Present:- None for the appellants.

Mr. Ravinder Arora, Advocate for respondent No.3.

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Briefly stated the facts of the case are that on account of death of Naginder Singh, in a road side accident, which took place on 14.8.2015 statedly on account of rash and negligent driving of truck bearing registration No. PB-11AX-9221, his widow namely Smt. Kulwinder Kaur, aged about 40 years, daughter Manpreet Kaur, aged about 21 years and father Darbara Singh, aged about 70 yeras, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Sita Singh-driver, Raj Rani Mittal-owner and IFFCO-TOKIO General Insurance Co. Ltd, Patiala-insurer of truck bearing registration No. PB-11AX-9221 (hereinafter referred to as the offending truck), claiming compensation to the tune of Rs.25 lacs.

On getting notice, all the three respondents appeared and filed written statements contesting the claim petition. Issues on merits were framed and parties were afforded adequate opportunities.

On conclusion of arguments, Motor Accident Claims Tribunal, Patiala vide Award dated 1.8.2016 accepted the claim petition and awarded compensation of Rs.10,56,112/- with interest at the rate of 9% per annum from the date of filing of claim petition till actual realization with directions with regard to apportionment, mode and manner of payment of the claim. The liability was held to be joint and several of all the respondents.

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

Notice of the appeal was given to the respondents but only Insurance Company has put in appearance through its counsel.

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

For the purpose of quantifying the compensation, the Tribunal has taken age of the deceased to be 45 years keeping in view such age mentioned in his post mortem report Ex.C2. Although as per case of the claimants deceased was in avocation of agriculture besides dairy farming and was earning Rs.25,000/- per month but in absence of enough cogent and convincing evidence those contentions were not accepted and monthly income of deceased was taken to Rs.8,000/-. No fault can be found with this approach of the Tribunal in doing so. However, the Tribunal committed a lapse in not adding any amount towards future prospects.

In terms of the judgment '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009'*** when the deceased was self employed and was in the age group of 40-50 years, then addition of 25% is to be made towards future prospects. Doing that the monthly income of the deceased is worked out to be Rs.10,000/-(8000 + 2000).

Keeping in view the number of dependent family members 1/3rd of the amount is to be deducted towards future prospects. Therefore, the dependency of the claimants comes out to Rs.6667/-, annual dependency comes out to Rs.80,004/-. Considering the age of the deceased, multiplier of 14 is to be applied. In that way the total compensation comes out to Rs.11,20,056/-(80004 x 14). In terms of the judgment '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009'*** the claimants are entitled to get Rs.70,000/- under conventional Heads. Therefore, the total compensation is worked out to Rs.11,90,056/-(11,20,056 + 70,000). The Tribunal has awarded more amount to the claimants under those Heads. However, the total compensation payable comes out to be more awarded by the Tribunal. The Tribunal has awarded compensation of Rs.10,56,112/-. In that way, the additional amount of compensation comes out to Rs.1,33,944/-(11,90,056 – 10,56,112), 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 all the claimants in the same mode and manner as given in the Award by the Tribunal and the claimants shall be entitled to get interest at the rate of 7.5% per annum on the additional compensation from the date of filing of the petition till actual realization.

With such modification, the appeal is allowed partly.

(H.S. MADAAN)
JUDGE

December 09, 2019
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No