IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2881 of 2017
DECIDED ON: JANUARY 10, 2019

BALWINDER KAUR AND OTHERS

.....APPELLANTS

VERSUS

HARVINDER SINGH & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Abhimanu Kalsi, Advocate for
Mr. Ankur Gupta, Advocate
for respondent No.3-Insurance Company.

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AVNEESH JHINGAN J. (ORAL)

The legal heirs of Gurlal Singh (deceased) are in appeal against the award dated 03.12.2016 passed by the Motor Accident Claims Tribunal, Patiala (for brevity 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The driver of car bearing registration No. PB-11-BW-7316 (hereinafter referred to as 'offending vehicle'); owner and insurer (i.e. Iffco Tokio General Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents no. 1 to 3 respectively in the appeal.

The facts emanating from the record are that on 01.05.2016, Gurlal Singh alongwith Jasvir Singh was going for morning walk from G.T. Road towards Khamano side. When they reached opposite to Amrit Palace Feror, Gurlal Singh was hit by a rashly and negligently driven offending vehicle. As a result of the injuries sustained in the accident, he died at the spot. FIR No. 48, dated 01.05.2016 was registered at Police Station Khamano, District Fatehgarh Sahib.

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 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. The Tribunal awarded compensation of ₹55,08,580/- alongwith interest @ 6% per annum. The amount awarded included ₹25,000/- for funeral expenses, ₹1,00,000/- for loss of love and affection and ₹50,000/- for loss of consortium to the widow.

In the claim petition, it was pleaded that the age of the deceased was 38 years and working as an Auction Recorder with the Market Committee, Sirhind and was getting a salary of ₹41,278/- per month. The Tribunal after considering the various allowances and income tax payable, assessed the monthly earning of the deceased as ₹39,508/-. The deceased was considered 37 years old at the time of accident. 1/4 deduction for self-expenses was made and multiplier of 15 was applied.

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

The only issue raised by learned counsel for the appellants is that no future prospects have been awarded.

Learned counsel for the insurer defends the award and resisted any further enhancement. He argues that no amount could be awarded for loss of love and affection. His grievance is that the amount awarded under the conventional heads are on the higher side.

There is no dispute between the parties with regard to the income assessed by the Tribunal, 1/4th deduction made for self-expenses and on application of multiplier of 15.

As the deceased was 37 years of age and was having a permanent job, 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;*** 50% future prospects are awarded.

As the quantum of compensation is revisited, no amount is awarded for loss of love and affection. Claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate. The widow of the deceased is entitled to ₹40,000/- for loss of consortium.

In view of afore-said discussion, the compensation is re-calculated as under:

	Head	**Compensation awarded**
(i)	Income	₹ 39,508/- per month
(ii)	Future prospects at 50%	₹ 19,754/- per month
(iii)	Total Income	₹ 59,262/- per month
(iv)	Deduction of personal expenses	₹ 14,815/- (i.e. 1/4th of total income)
(v)	Multiplier	15 (as per age of deceased)
(vi)	Loss of income	44,447x12x15= ₹80,00,460/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of consortium	₹40,000/-
	Total Compensation awarded	₹80,70,460/-

The award dated 03.12.2016 is modified to the extent that amount of ₹55,08,580/- awarded by the Tribunal is enhanced to ₹80,70,460/-. The appellants 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.

The appeal is allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

JANUARY 10, 2019
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No