IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4495 of 2017
DATE OF DECISION: JANUARY 16, 2019

MAYA DEVI & ANR

.......APPELLANTS

VERSUS

BALDEV SINGH & OTHERS

......RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Pankaj Thakral, Advocate for
Mr. Prabhjot Singh, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent-Insurance Company.

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AVNEESH JHINGAN, J.(oral)

The award dated 09.04.2015 passed by Motor Accident Claims Tribunal, Sri Muktsar Sahib (for short 'the Tribunal') has been assailed by the legal heirs of Gurjant Singh (deceased) for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The parents of Gurjant Singh (deceased) are the appellants. The driver of bus bearing registration No. PB-30-C-6802 (hereinafter referred to as 'offending vehicle'), owner and insurer (i.e. United India Insurance Company Ltd.) of the 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 a motor vehicular accident took place on 12.08.2011 in which Gurjant Singh

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lost his life. He was riding a motorcycle. On his way, the motorcycle was struck by a rashly and negligently driven offending vehicle. As a result of the impact, Gurjant Singh fell down and was crushed under the front tyre of the offending vehicle. He died at the spot. FIR No. 92, dated 12.08.2011 was registered at Police Station, Lambi.

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 rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation. The Tribunal assessed the monthly income of the deceased as ₹6000/- per month; 1/2 deduction was made for self expenses and a multiplier of 16 was applied. The Tribunal awarded a sum of ₹6,06,000/- along with interest at the rate of 6% per annum. The amount awarded included ₹30,000/- under the conventional heads.

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

Learned counsel for the appellants contends that the deceased was 31 years of age at the time of accident and no future prospects have been awarded. No other issue has been raised.

Learned counsel for the insurer defends the award and resisted any further enhancement.

There is no dispute between the parties with regard to the loss of dependency calculated by the Tribunal as ₹5,76,000/-.

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

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Hem Raj vs. Oriental Insurance Company Ltd ***2018 (2) PLR 480;*** 40% future prospects are awarded. 40% of ₹5,76,000/- is ₹2,30,400/-.

The award dated 09.04.2015 is modified to the extent that amount awarded of ₹6,06,000/- by the Tribunal is enhanced by ₹2,30,400/-

The claimants shall be entitled to 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 partly allowed of in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

JANUARY 16, 2019
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Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***

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