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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.2094 of 2018
Date of Decision: 16.05.2019

Mukesh w/o Lt. Surender Singh and others

Appellants

Versus

Mukesh s/o Abhey Ram and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Surinder Gandhi, Advocate
for the appellants.

Mr. Sanjiv Pabbi, Advocate
for respondent No.3.

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AVNEESH JHINGAN, J (Oral):

The award dated 08.08.2017 passed by the Motor Accident Claims Tribunal, Rohtak [for brevity 'the Tribunal'] has been assailed by the legal representatives of Surender Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. United India Insurance Company Ltd.) of Car bearing registration No. HR-20S-1283 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum of the accident is not disputed by the parties. A motor vehicular accident took place on 10.12.2016. The accident proved fatal for Surender Singh. The accident was result of rash and negligent driving of the offending vehicle. FIR was registered. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, it was pleaded that the deceased was an agriculturist and his age was 35 years at the time of accident. The claimants failed to prove monthly earning of the deceased. The Tribunal assessed earning of the deceased as ₹7,500/- per month; 1/4th deduction for self-expenses was made and multiplier of '15' was applied. The Tribunal considered the age of the deceased as 35 years relying upon the affidavit filed by the widow and post-mortem report. The Tribunal awarded a sum of ₹11,37,500/- alongwith interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium and ₹25,000/- for funeral expenses.

Heard learned counsel for the parties and perused the relevant documents produced by them.

Learned counsel for the appellants contends that no future prospects have been awarded; multiplier of '15' has wrongly been applied instead of '16' and no amount is awarded for loss of estate.

Learned counsel for the insurer argues that amounts awarded for loss of consortium and funeral expenses are on the higher side.

There is no challenge to the income assessed by the Tribunal and 1/4th deduction made for self-expenses.

From the documents produced before the Tribunal i.e. affidavit of widow and post-mortem report, it was evident that age of the deceased was 35 years old at the time of accident. In absence of any evidence to the contrary, the Tribunal considered the age of the deceased accordingly. In consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21***, multiplier of '16' is applied as the deceased was in the age group of 31-35 years.

Having due regard to the decisions of the Supreme Court in cases of ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, 40% future prospects are awarded.

As the quantum of compensation is being revisited, it would be appropriate that compensation under the conventional heads be awarded as per decision of the Supreme Court in ***Pranay Sethi's case*** (supra). The claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- are awarded to the widow for loss of consortium.

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

Particulars	**Amount (in ₹)**
Monthly income of the deceased as assessed	7,500/-
40% Future Prospects	3,000/-
Sub Total	10,500/-
1/4th deduction for self expenses	2,625/-
Monthly Dependency	7,875/-
Annual Dependency	94,500/-
Applying multiplier of '16'	**15,12,000/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to the widow	**40,000/-**
Grand Total	**15,82,000/-**

The award dated 08.08.2017 is modified to the extent that amount of ₹11,37,500/- awarded by the Tribunal is enhanced to ₹15,82,000/-.

The claimants shall be entitled to the enhanced amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

May 16, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : No