

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2195 of 2018 (O&M)

Date of Decision: 08.05.2019

Kalawati Devi and others

..... Appellants

Versus

Ajaib Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gourav Jain, Advocate
for the appellants.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 11.7.2017 passed by Motor Accidents Claims Tribunal, Sirsa, (hereinafter referred to as 'the Tribunal') by mother, widow and minor son of Sukh Ram seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

Respondents are owner of truck bearing registration No.HR-57-6982 (for short 'the offending vehicle'), General Power of Attorney, driver and insurer (i.e. The new India Insurer Company Limited) of the offending vehicle.

The facts necessary for adjudication of the present appeal are that on 15.9.2014 Sukh Ram alongwith Ram Chander and others was going to Goga Ji Goga Mairi from Goga Ji Dadreva in Car bearing registration No.HR-39-B-4469. On their way the Car was struck by the offending vehicle. The Car got crushed between the offending vehicle and roadside tree. Sukh Ram suffered injuries and was taken to Sanjivani Hospital, Sirsa. He succumbed to injuries on the same day.

FIR No. 184 dated 15.9.2014 was registered at Police Station Goga Mairi, District

In the claim proceedings, the Tribunal came to the conclusion that the accident was result of rash and negligent driving of the offending vehicle and respondents were held jointly and severally liable to pay compensation.

In the claim proceedings, the claimants pleaded that the deceased was an agriculturist and was doing business of dairy farming. His income was claimed as ₹ 50,000/- per month. The claimants failed to prove the occupation and earning of the deceased. The Tribunal relying upon the DC rate in the year 2014-2015 assessed the monthly income as ₹ 8100/-, made 1/3rd deduction for self-expenses as the deceased was survived by three dependants and multiplier of 16 was applied as the age of the deceased was 32 years. The Tribunal awarded a sum of ₹ 10,81,800/- along with interest at the rate of 9% per annum. The amount awarded included ₹ 35,000/- for pain and suffering, loss of consortium, love and affection and ₹ 10,000/- for funeral expenses and transportation etc.

Even though no future prospects were awarded but the learned counsel has not pressed the said issue as the income assessed by the Tribunal was by relying upon the DC rates which were more than the minimum wages prevalent in the State at the relevant time and if the future prospects are made on the basis of minimum wages, the monthly income would be still less than as income assessed by the Tribunal. The only grievance is with regard to amount to be awarded under conventional heads.

The issue raised by the appellants with regard to amount to be awarded under conventional heads is covered by the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.**

There is no challenge to the deduction made for self-expenses and multiplier applied.

case (supra), the claimants are entitled to ₹ 70,000/- under conventional heads, i.e., ₹ 15,000/- each for loss of estate and funeral expenses and ₹ 40,000/- for loss of consortium. The claimants have got ₹ 45000/- under conventional heads, hence, they are entitled to another amount of ₹ 25,000/-.

The award dated 11.7.2017 is modified to the extent that the amount awarded by the Tribunal is enhanced by ₹ 25,000/-. The claimants shall be entitled to said amount along with interest at the rate of 7.5% per annum till realisation of the amount.

For the view being taken above, it is not deemed appropriate to issue notice to the insurer of the offending vehicle. It is further clarified that in case the insurer has any grievance against the order passed, it would be at liberty to revive the appeal by filing an application.

The appeal is disposed of.

08.05.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No