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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.2617 of 2018 (O&M)
Date of Decision : 08.05.2019

Shabana and others

Appellants

Versus

Balram Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Pradeep Chhoker, Advocate for Mr. Namit Khurana, Advocate for the appellants.

Mr. B.S. Taunque, Advocate for respondent No.3.

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<u>AVNEESH JHINGAN, J (Oral)</u>

The award dated 13.10.2017 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri [for brevity 'the Tribunal'] has been assailed by the widow, mother and sisters of Intzar (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. The New India Insurance Company Ltd.) of Truck bearing registration No. HR-65-6347 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal. Father of the deceased has been arrayed as proforma respondent No.4.

The factum of accident has not been disputed by the parties. A motor vehicular accident took place on 12.07.2016. The accident proved fatal for Intzar, aged 24 years. The accident was result of rash and negligent driving of the offending vehicle. The Insurance Company was held liable to pay the compensation.

The only two issues involved in the present appeal are that (i) no future prospects have been awarded and (ii) amounts under the conventional heads be awarded as per decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.***

In the claim proceedings, it was claimed that the deceased was doing the business of selling fruits and vegetables and was earning ₹30,000/- per month. The claimants failed to prove occupation and earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹8,070/-; 1/3rd deduction for self-expenses was made and multiplier of '17' was applied. The Tribunal awarded compensation of ₹12,72,520/- alongwith interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium, ₹50,000/- for loss of estate and ₹25,000/- for funeral expenses.

Learned counsel for the appellants contends that no future prospects have been awarded by the Tribunal while awarding the compensation.

Learned counsel for the insurer while defending the award argues that the amounts be awarded under the conventional heads as per decision of the Supreme Court in ***Pranay Sethi's*** case (supra).

As there is no challenge to the loss of dependency i.e. ₹10,97,520/- calculated by the Tribunal, 40% of the said amount i.e. ₹4,39,008/- is awarded towards future prospects in consonance with the decision of the Supreme Court in ***Pranay Sethi's case*** (supra) and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,*** as deceased was below 40 years of age and fell in the category of self-employed or having fixed wages.

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

The net effect is that amount of ₹1,75,000/- awarded by the Tribunal under the conventional heads is reduced to ₹70,000/-.

The award dated 13.10.2017 is modified to the extent that the amount of ₹12,72,520/- awarded by the Tribunal is enhanced by ₹3,34,008/-.

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 08, 2019

pankaj baweja

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