IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2651 of 2018
Date of decision: 30.1.2019

Smt. Reshma and another

.. Appellants

v.

Meenu and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Simranjeet Kaur, Advocate for the appellants.
Mr. Amit Kundra, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The parents of Mohan (deceased) are in appeal against the award dated 1.12.2017 passed by the Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') seeking enhancement of compensation of ₹11,04,200/- awarded along with interest @ 9% per annum under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The respondents in the appeal are the driver of tractor bearing registration No. HR-12X/0565 (hereinafter referred to as 'the offending vehicle), owner and the insurer (i.e. The New India Assurance Company Limited) of the offending vehicle.

The brief facts necessary for adjudication of the present appeal are that on 30.12.2016, Mohan was returning to his house from Maharishi

Dayanand University, Rohtak (for short, 'the University'), he was riding motor cycle bearing registration No. HR-12N/7279. On his way, he was hit by a rashly and negligently driven offending vehicle, as a result of the impact, he sustained grievous injuries. He was taken to PGIMS, Rohtak but he died on the way to the hospital.

A claim petition under Section 166 of the Act was filed by the parents of the deceased. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the 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 the compensation.

It was proved before the Tribunal that Mohan (deceased) was working as a Mali in the University on contract basis and was drawing monthly salary of ₹10,200/-. He was 30 years old at the time of accident. The Tribunal calculated the compensation taking his salary as ₹10,200/- per month, ½ deduction was made for self-expenses as he was unmarried and multiplier of 16 was applied. ₹1,00,000/- was awarded for loss of love and affection and ₹25,000/- was awarded for funeral expenses.

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

Learned counsel for the appellants contends that no future prospects have been awarded. The Tribunal erred in applying the multiplier of 16 as the deceased was proved to be 30 years old at the time of accident. Her grievance is that no amount has been awarded for loss of estate.

Learned counsel for the insurer defends the award and argues that the amount awarded for funeral expenses is on the higher side and no amount can be awarded for loss of love and affection. However, he could not raise serious objection with regard to awarding future prospects in view of the decision of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157.**

There is no dispute between the parties with regard to the monthly income assessed by the Tribunal, ½ deduction made for self-expenses and the fact that the deceased was 30 years old at the time of accident.

Having due regard to the decisions of the Supreme Court in **Pranay Sethi's case (supra)** and **Hem Raj v. Oriental Insurance Company Ltd., 2018 (2) PLR 480** and considering the age of the deceased as 30 years at the time of accident and was employed on contract basis, 40% future prospects are awarded.

In consonance with the decision of the Supreme Court in **Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 21**, multiplier of 17 is to be applied as the deceased falls in the category of age group of 26-30 years.

As the quantum of compensation is being re-visited, it would be appropriate that the amounts awarded under the conventional heads are made in consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra).** The claimants are awarded ₹15,000/- each for funeral expenses and loss of estate. No amount is awarded for loss of love and affection.

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

Particulars	***Amount awarded in ₹***
Monthly income	10,200/-
40% future prospects	4,080/-
Total income	14,280/-
½ deduction for self expenses	7,140/-
Applying multiplier of '17'	14,56,560/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
Total compensation awarded	14,86,560/-

The award dated 1.12.2017 is modified to the extent that the amount awarded by the Tribunal to the tune of ₹11,04,200/- is enhanced to ₹14,86,560/-. The appellants shall be entitled to the enhanced compensation along with interest @ 7.5% per annum from the date of filing of the claim petition till realization of amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

30.1.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No