IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5273 of 2018
Date of decision: 17.1.2019

Ashmeen and others

.. Appellants

v.

Veer Bahadur Thapa alias Beer Bahadur and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ram Bilas Gupta, Advocate for the appellants.

...

AVNEESH JHINGAN, J. (Oral)

The legal heirs of Aash Mohd. are in appeal against the award dated 5.2.2018 passed by the Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The facts necessary for adjudication of the present appeal are that on 13.10.2016, Aash Mohd. was a pillion rider on a motorcycle bearing registration No. HR-51BB-7589. The motorcycle was being driven by Yusuf. When they reached near Sainik Colony, Gurgaon Road, Faridabad, the motorcycle was struck by a rashly and negligently driven canter bearing registration No. HR-38Q-3833 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, Aash Mohd. fell down and was crushed under the wheels of the canter and died at the spot. FIR No. 648 dated 13.10.2016 was registered at Police Station Surajkund, Faridabad.

A claim petition under Section 166 of the Act was filed. It was pleaded that the deceased was working as a carpenter with M/s Concept, Shop No. 11-12, Tigaon Road, near Shiv Mandir, Sector 86, Faridabad and was earning ₹18,000/- per month. The claimants produced a salary certificate but failed to substantiate the same as no body was examined from M/s Concept to prove the salary certificate. The Tribunal considered the deceased as a skilled labourer and awarded compensation by relying upon the minimum wages prevalent in the State of Haryana at the time of accident i.e. ₹9,342/- per month, 40% future prospects were added, 1/5th deduction for self-expenses was made and a multiplier of '16' was applied as the deceased was 33 years old and ₹70,000/- was awarded under the conventional heads. A compensation of ₹20,78,896/- along with interest @ 7.5% per annum was awarded by the Tribunal. The insurer of the offending vehicle was held liable to pay the compensation.

Learned counsel for the appellants contends that the monthly income assessed by the Tribunal is on the lower side as a salary certificate was produced before the Tribunal, according to which the deceased was earning ₹18,000/- per month.

The contention raised by learned counsel for the appellants lacks merit. No doubt, a salary certificate was produced but no body stepped into the witness-box to support the said certificate, the certificate was rightly ignored by the Tribunal. Where the monthly earning of the deceased is not proved, in such circumstances, one of the safest yardstick is to rely upon the minimum wages prevalent in the State at the time of accident to grant compensation. The Tribunal considered minimum wages of skilled labourer to award compensation even when to prove occupation of the deceased, there was only a statement of the widow of the deceased. There was no deposition by the employer to prove that the deceased was a carpenter, yet the Tribunal has considered the deceased as a skilled labourer and awarded compensation accordingly.

Keeping in view that the amounts under the conventional heads are also rightly awarded in consonance with the decision of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157,** no interference is called for in the impugned award.

Consequently, the appeal being without merit is dismissed.

(AVNEESH JHINGAN)
JUDGE

17.1.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No