

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5430 of 2018

Date of decision: 29.1.2019

Smt. Lalita Kumari and others

.. Appellants

v.

Sandeep and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ajit Kumar Sharma, Advocate for
Mr. Ram Darshan Yadav, Advocate for the appellants.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 28.5.2018 passed by the Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') has been assailed by the claimants 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 2.5.2017, Rakesh Kumar aged 24 years along with his son was riding a scooty bearing registration No. HR-26BY-5696. On the way, the scooty was hit by rashly and negligently driven car bearing registration No. HR-36P-5902 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, Rakesh Kumar sustained serious injuries which proved fatal. He died during treatment in SMS Hospital, Jaipur. FIR No. 154 dated 2.6.2017 was registered at Police Station, City Rewari.

The widow, minor child and parents of the deceased filed a claim petition under Section 166 of the Act. Before the Tribunal, it was pleaded that the deceased was working with M/s R. K. Electricals as

electrician and was drawing salary of ₹25,000/- per month. But, the claimants failed to prove the occupation and the earning of the deceased. The Tribunal assessed the monthly earning of the deceased as 12,000/-; awarded 40% future prospects; 1/4th deduction for self-expenses was made and multiplier of 18 was applied.

The Tribunal on 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 the insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹28,24,600/- along with interest @ 7.5% per annum. The amount awarded included ₹70,000/- under the conventional heads and ₹33,000/- for medical bills.

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

Learned counsel for the appellants states that the income assessed by the Tribunal is on the lower side as it was claimed that the deceased was earning ₹25,000/- per month.

The contention raised by learned counsel for the appellants lacks merit. Apart from mere pleading that the deceased was working with M/s R. K. Electricals and was drawing a salary of ₹25,000/- per month, no documentary evidence was produced. The employer never deposed before the Tribunal. The Tribunal rightly assessed the monthly earning of the deceased as ₹12,000/-, which is reasonable considering the minimum wages prevalent in the State of Haryana at the time of accident. The future prospects, deduction for self- expenses and the amounts awarded under the conventional heads are 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 findings recorded by the Tribunal as no case is made out for enhancement of compensation.

The appeal is dismissed.

(AVNEESH JHINGAN)
JUDGE

29.1.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No