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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.5750 of 2018
Date of Decision : 08.04.2019

Roshni and others

Appellants

Versus

Narender Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.K. Ranolia, Advocate for
Mr. Shiv Kumar, Advocate
for the appellants.

Mr. Abhishek Goyal, Advocate and
Mr. Pradeep Goyal, Advocate
for respondent No.3.

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AVNEESH JHINGAN, J (Oral)

The award dated 13.12.2017 passed by the Motor Accident Claims Tribunal, Faridabad [for brevity 'the Tribunal'] has been assailed by the widow, two daughters and son of Ravinder @ Bhola (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. National Insurance Company Ltd.) of Honda City Car bearing registration No. HR-51AB-9900 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum with regard to the accident is not in dispute. A motor vehicular accident took place on 30.11.2016, which proved fatal for Ravinder @ Bhola, aged 37 years. 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.

Two issues are involved in present appeal, firstly that the deceased was survived by four dependents, the Tribunal erred in making 1/3rd deduction for self-expenses. Second issue is that the amounts awarded under the conventional heads be made as per the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.***

In the claim proceedings, the Tribunal relying upon the Income Tax Returns filed, assessed income of the deceased as ₹3,50,000/- per annum; 40% future prospects were awarded; 1/3rd deduction for self-expenses was made and multiplier of '15' was applied in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.*** The Tribunal awarded ₹50,90,000/- alongwith interest @ 6% per annum. The amount awarded included ₹40,000/- for loss of consortium; ₹1,20,000/- for loss of love and affection; ₹15,000/- each for funeral expenses and for loss of estate.

Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

Learned counsel for the appellants contends that there were four claimants i.e. widow and three children, as such the

Tribunal erred in making 1/3rd deduction for self-expenses instead of 1/4th. Per contra, learned counsel for the insurer argues that no amount be awarded for loss of love and affection.

There is no dispute with regard to income assessed, future prospects awarded and multiplier applied.

As per decision of the Supreme Court in ***Sarla Verma's case*** (supra), 1/4th deduction for self-expenses is made as the deceased is survived by four dependents.

Since the quantum of compensation is being revisited, it is deemed appropriate that amounts under the conventional heads are awarded as per decision of the Supreme Court in ***Pranay Sethi's case*** (supra). No amount is awarded for loss of love and affection.

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

Particulars	**Amount (in ₹)**
Annual Income of the deceased as assessed by the Tribunal	3,50,000/-
40% future prospects	(+) 1,40,000/-
Sub Total	4,90,000/-
1/4th deduction for self-expenses	(-) 1,22,500/-
Annual Dependency	3,67,500/-
Applying Multiplier of '15'	55,12,500/-
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to the spouse	**40,000/-**
Grand Total	**55,82,500/-**

The award dated 13.12.2017 is modified to the extent that amount of ₹50,90,000/- awarded by the Tribunal is enhanced to ₹55,82,500/-.

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 allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

April 08, 2019
pankaj baweja

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