IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6555 of 2018 (O&M)

Date of Decision: 29.04.2019

Smt. Kamlesh and others

.......Appellants

Versus

Naresh Kumar and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Navmohit Singh, Advocate
for the appellants.

AVNEESH JHINGAN, J.(oral)

The award dated 6.12.2017 passed by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as '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 appellants are widow and three minor children of Ramesh Chand. The driver of Pick Up No.HR-66A/6426 (for short 'the offending vehicle') owner and insurer i.e. United India Insurance Company Ltd., have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts necessary for adjudication of the present appeal are that on 23.1.2017, Ramesh Chand was coming back home on a motor cycle bearing registration No.HR-36-F-5207. On his way, the motor cycle was struck by the offending vehicle, as a result of the impact, he fell down and sustained injuries. He was taken to Civil Hospital, Mohindergarh where he was declared brought dead. FIR No. 20/23.1.2017 was registered at Police Station Mohindergarh.

The issue regarding rash and negligent driving was decided in favour of the claimants. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

In the claim proceedings, it was pleaded that the deceased was doing agricultural work and dairy farming and was earning ₹ 30,000/- per month. However, the claimants failed to prove the occupation and earning of the deceased. The Tribunal assessed the monthly earning of the deceased as ₹ 9880/-, 25% future prospects were awarded as per the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** as the deceased was 41 years of age and fell in the category of self-employed or having fixed wages, as the deceased was survived by four dependants, 1/4th deduction for self expenses were made in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21*** and multiplier of 14 was applied. A sum of ₹ 16,26,100/- was awarded along with interest at the rate of 9% per annum. The amount awarded included ₹ 70,000/- under conventional heads.

Learned counsel for the appellants argued that the amounts awarded under the conventional heads are on lower side.

The contention raised is not well founded.

The amount awarded under conventional heads are in consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra)**

No other issue has been raised.

There is no scope for enhancement under the conventional heads in view of the authoritative decision of the Supreme Court.

The appeal is dismissed.

Since the main appeal has been decided on merits, the issue regarding condonation of delay is kept open.

(AVNEESH JHINGAN)
JUDGE

29.04.2019
reema

Whether speaking/reasoned Yes
Whether Reportable: No