IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7067 of 2018
DECIDED ON: MAY 21, 2019

MAYA DEVI AND OTHERS

.....APPELLANTS

VERSUS

VIJAY AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Prashant Singh Chauhan, Advocate
for the appellants.

Mr. Abhinav Singla, Advocate for
Mr. Rajbir Singh, Advocate
for respondent No.3-Insurance Company.

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AVNEESH JHINGAN, J (Oral)

The award dated 08.02.2017 passed by the Motor Accident Claims Tribunal, Rewari (for brevity 'the Tribunal') in MACP No. 85/2016 has been assailed by the widow, two minor children and mother of Dinesh (deceased), seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, registered owner and insurer (i.e. HDFC, EFGO General Insurance Company) of pick-up bearing registration

No. HR-61-A-5794 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts of the case are that on 07.12.2015, Dinesh was chatting with other persons while standing in front of Anganwari Centre of village Rudh. In the meanwhile, the offending vehicle struck against Dinesh, as a result of the impact, he sustained injuries and was taken to Birendra Hospital, Rewari where he succumbed to the injuries. FIR No. 304, dated 08.12.2015 was registered at Police Station Kasola.

A claim petition was filed under Section 166 of the Act. 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 driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, it was proved that the deceased was 27 years old at the time of accident and was working on contract basis as helper in Manoj Enterprises, Dharuhera. His income was proved as ₹11,500/- per month; 50% future prospects were awarded; 1/3rd deduction for self-expenses was made and multiplier of '17' was applied. The Tribunal awarded compensation of ₹24,71,000/- alongwith interest @7.5% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹1,00,000/- for loss of consortium to the widow.

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

Learned counsel for the appellants argues that 1/3rd deduction for self-expenses has wrongly been made by the Tribunal instead of 1/4th, as the deceased was survived by four dependants.

Learned counsel for the insurer contends that 50% future prospects have wrongly been awarded by the Tribunal instead of 40%. He submits that the amounts awarded under the conventional heads are on higher side. He resisted any further enhancement.

There is no challenge to the income assessed, age of the deceased and multiplier applied of '17'.

In consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21;*** 1/4th deduction for self-expenses is made, as the deceased was survived by four dependants.

Having due regard to the decisions of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, 40% future prospects are awarded, as the deceased was below 40 years of age and fell in the category of self-employed or person having fixed wages.

As the quantum of compensation is being revisited, it would be appropriate that compensation under the conventional heads be awarded as per decision of the Supreme Court in ***Pranay Sethi's case*** (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. Another amount of ₹40,000/-

is awarded to the widow for loss of consortium.

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

	Head	**Compensation awarded**
(i)	Monthly Income	₹ 11,500/- per month
(ii)	Future prospects at 40%	₹ 4600/- per month
(iii)	Total Income	₹ 16,100/-
(iv)	Deduction of personal expenses	₹ 4025/- (i.e. 1/4th of total income)
(v)	Multiplier	17 (as per age of deceased)
(vi)	Loss of income	12,075x12x17= ₹24,63,300/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of consortium	₹ 40,000/-
	Total Compensation awarded	₹25,33,300/-

The award dated 08.02.2017 is modified to the extent that amount of ₹24,71,000/- awarded by the Tribunal is enhanced to ₹25,33,300/-. 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

MAY 21, 2019
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Whether speaking/ reasoned : Yes
Whether reportable : Yes