IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 8158 of 2015
DECIDED ON: FEBRUARY 11, 2019

CHANDER DEVI AND OTHERS

.....APPELLANTS

VERSUS

PARDEEP AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ram Kumar Saini, Advocate
for the appellants.

Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate
for respondent No.3.

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AVNEESH JHINGAN J. (ORAL)

The award dated 04.08.2015 passed by the Motor Accident Claims Tribunal, Hisar (for brevity 'the Tribunal') has been assailed by the legal heirs of Rameshwar seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The widow and three minor daughters of Rameshwar are the appellants. The driver of car Duster bearing registration No. HR-16-M-4449 (hereinafter referred to as 'offending vehicle), owner and insurer (i.e. Reliance

General Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents no. 1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that a motor vehicular accident took place on 09.02.2014 in which Rameshwar, who was riding a motorcycle bearing registration No. HR-21-E-3726 sustained multiple grievous injuries. He was taken to General Hospital, Hansi and thereafter to CMC, Hisar where he was declared dead. FIR No. 50, dated 10.02.2014 was registered.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to 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. The Tribunal awarded compensation of ₹14,85,000/- alongwith interest @ 7% per annum. The amount awarded included ₹25000/- each for funeral expenses and towards love and affection and ₹4600/- for transportation and misc. expenses.

In the claim petition, it was pleaded that the deceased was 46 years old and relying upon the income tax of the deceased, the Tribunal assessed the annual earnings of the deceased as ₹1,78,800/-; 1/3rd deduction for self-expenses was made and multiplier of '12' was applied.

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

The grievance of learned counsel for the appellants is four fold; no future prospects have been awarded; secondly, 1/3rd deduction for self-expenses has wrongly been made instead of 1/4th as the deceased was survived by his four dependants; thirdly, multiplier of 12 has wrongly been applied instead of 13; lastly, the amounts awarded under the conventional heads are on lower side.

Learned counsel for the insurer defends the award and resisted any further enhancement. Her grievance is that no amount can be awarded for loss of love and affection.

There is no dispute between the parties with regard to the age of the deceased and the income taken by the Tribunal for calculating compensation.

Having due regard to the decisions of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi and others;*** ***2017 (4) RCR (Civil) 1009*** and ***Hem Raj vs. Oriental Insurance Company*** Ltd ***2018 (2) PLR 480;*** 25% future prospects are awarded, as the deceased was 46 years old at the time of accident and falls in the category of self employed having fixed wages.

The deceased was survived by four dependants and 1/4th deduction for self-expenses is to be made in consonance with the decision of the Supreme Court in ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another;*** ***(2009) 6 SCC 121*** and multiplier of 13 is to be applied, as the deceased falls in the age group of 46 to 50.

In consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra), claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate. The widow of the deceased is entitled to ₹40,000/- for loss of consortium. No amount is awarded for loss of love and affection.

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

	Head	**Compensation awarded**
(i)	Annual income	₹ 1,78,800/- per month
(ii)	Future prospects at 25%	₹ 44,700/-
(iii)	Total Income	₹ 2,23,500/- per month
(iv)	Deduction of personal expenses	₹ 55,875/- (i.e. 1/4th of total income)
(v)	Multiplier	13 (as per age of deceased)
(vi)	Loss of income	167625x13= ₹21,79,125/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of consortium	₹40,000/-
	Total Compensation awarded	₹22,79,125/-

The award dated 04.08.2015 is modified to the extent that amount of ₹14,85,000/- awarded by the Tribunal is enhanced to ₹22,79,125/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

FEBRUARY 11, 2019
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No