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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.6333 of 2016
Date of Decision: 30.05.2022

Nirmala and others

……Appellants

Versus

Balwant Singh and others

……Respondents.

__BEFORE__: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

*****

Present:- Mr. Manoj Makkar, Advocate
for the appellants.

Mr. S.S. Sidhu, Advocate
for respondent No.3-Insurance Company.

__MEENAKSHI I. MEHTA, J.(Oral)__

Feeling aggrieved and dis-satisfied by the Award as passed by learned Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal) whereby the appellants-claimants (here-in-after to be referred as 'the claimants') have been awarded compensation to the tune of Rs.6,95,000/-, they (claimants) have preferred the instant appeal for seeking the enhancement of the same.

2. Bereft of unnecessary details, the facts culminating in the filing of the present appeal, are that the claimants filed a claim petition

against the respondents, being the respective driver, owner and insurer of the vehicle bearing registration No. PB-01-6976 (for short 'the offending vehicle'), for seeking compensation on account of the death of Suresh, husband of claimant No.1, father of claimants No.2 and 3 and son of claimants No.4 and 5, on 28.04.2013 in a motor vehicular accident caused by respondent No.1 by driving the above-said offending vehicle in a rash and negligent manner at a very high speed and thereby, dashing the same against the motor-cycle, being driven by the afore-named deceased, who sustained fatal injuries in this accident and succumbed to the same at the spot.

3. It is pertinent to mention here that respondents No.1 and 2 were proceeded against *ex-parte* by the Tribunal. Respondent No.3-Insurance Company, in its written statement, contested the claim of the claimants, *inter-alia,* on the grounds of jurisdiction, *locus-standi*, cause of action and denied the factum of the involvement of the said offending vehicle in the accident in question and also asserted that respondent No.1 was not having a valid and effective driving licence at that time.

4. The Tribunal put the parties to the trial by framing the issues on 04.01.2014. The claimants as well as respondent No.3-Insurance Company led their evidence, oral as well as documentary, in support of their respective contentions and after appreciating and evaluating their evidence and hearing their learned counsel, the Tribunal partly allowed the claim petition and awarded compensation to the tune of Rs.6,95,000/- to

the claimants along-with the interest thereon @ 7.5% per annum from the date of the filing of the petition till its realization.

5. I have heard learned counsel for the claimants as well as learned counsel for respondent No.3 in the instant appeal and have also perused the record carefully.

6. Learned counsel for the claimants contends that the Tribunal has not taken the aspect of future prospects into consideration while calculating and awarding the compensation to the claimants whereas in view of the age of the deceased at the time of the accident in question, 25% amount of his assessed income was required to be added therein on the said score and moreover, the Tribunal has awarded insufficient amount for the loss of consortium as well as towards the funeral and transportation expenses and has not awarded any compensation for the loss of estate and hence, the claimants are entitled to the enhancement of the amount of compensation awarded to them, on all these counts.

7. The deceased was, concededly, 43 years old at the time of his death in the above-said accident and therefore, in the light of the observations made by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009***, the amount worth 25% of his assessed income was to be added therein on account of the future prospects but the Tribunal has not considered this aspect in the impugned award. Further, this Court is of the considered opinion that it would be in the fitness of the things if a sum of Rs.15,000/-

is awarded for the expenditure incurred on the funeral and transportation of the deceased and a sum of Rs.40,000/- is given towards the loss of consortium and another amount of Rs. 15,000/- is awarded for the loss of estate. It being so, the enhanced amount of compensation shall be as under:-

S.No.	Head	Amount
1.	Compensation on account of future prospects	Rs.6,55,200X25/100=1,63,800/-
2.	Funeral and transportation expenses	Rs.15,000-10,000=5,000/-
3.	Loss of consortium	Rs.40,000-10,000=Rs.30,000/-
4.	Loss of estate	Rs.15000/-
5.	Total enhanced compensation	Rs.2,13,800/-

8. As a sequel to the foregoing discussion, the present appeal is allowed to the effect that the claimants are entitled to the net enhanced compensation amounting to Rs.2,13,800/-, over and above the amount of Rs.6,95,000/-, as already awarded to them, along-with interest @ 7.5% per annum, which shall be payable by respondent No.3-Insurance Company to the claimants in the same terms and through the same mode as already settled in the impugned Award.

(MEENAKSHI I. MEHTA)
JUDGE

May 30, 2022
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Whether speaking/reasoned: *Yes*

Whether Reportable: *No*