
(2019) 03 P&H CK 0090

In the Punjab And Haryana At Chandigarh

Case No : First Appeal Order No. 7990 Of 2017 (O&M)

Tetri Devi And Another

APPELLANT

Vs

Phool Chand And Others

RESPONDENT

Date of Decision : 08-03-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2019) 03 P&H CK 0090

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : Lipika Dahiya Mamli, Vinod Gupta

Final Decision : Allowed

Judgement

Avneesh Jhingan, J

The present appeal is against award dated 5.8.2017 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The appellants are mother and brother of the deceased. Respondent No.1 is owner of Truck/Tanker bearing registration No.DN-09-L-9739 (for short 'the offending vehicle') and respondents No. 2 & 3 are the driver and insurer (i.e. The New India Assurance Company Limited) of the offending vehicle.

The facts necessary for adjudication of the present appeal are that on 27.5.2015 Chhote Lal (deceased) was going on foot. On his way, a rashly and negligently driven offending vehicle struck him, as a result of the impact, he fell down and the offending vehicle ran over him. He died at the spot. FIR No.314 dated 27.5.2015 was registered at P.S. Sadar, City Jagadhri.

In the claim petition, it was pleaded that the deceased was working as Operator of a Press Machine and was earning Rs. 15,000/- per month, albeit, the

claimants failed to prove the occupation and earning of the deceased. The Tribunal treated him to be an unskilled labourer and assessed his income as Rs. 7400/- per month, 1/2 deduction for self-expenses was made as he was unmarried and multiplier of 11 was applied considering the age of the mother of deceased. The Tribunal awarded a sum of Rs. 6,13,400/- along with interest at the rate of 7.5% per annum. The amount awarded included Rs. 25,000/- for funeral expenses and Rs. 1,00,000/- for loss of love and affection.

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

Learned counsel for the appellants contends that no future prospects have been awarded and the Tribunal erred in applying multiplier considering the age of mother of the deceased.

Learned counsel for the insurer contends that no amount can be awarded for loss of love and affection and amount under conventional heads be awarded in consonance with the decision of the Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others AIR (2017) (SC) 5157.

The deceased was below 40 years of age and would fall in the category of self-employed or fixed wages. In consonance with the decisions of the Supreme Court in Pranay Sethi's case (supra) and Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480 40% future prospects are awarded.

The deceased was 33 years of age and as per the decision of the Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21, multiplier of 16 has to be applied. The issue that multiplier is to be applied considering the age of the deceased and not of claimant is no longer res-integra. The Supreme Court in the case of Sube Singh and another vs. Shyam Singh (Dead) and others; (2018) 3 SCC 18 has held as under:

"On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e. 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased.

The legal position, however, is no more res integra. In the case of Munna Lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants."

As the quantum of compensation is being revisited, the amounts under conventional heads are awarded as per decision of the Supreme Court in Pranay Sethi's case (supra). The claimants are entitled to Rs. 15,000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of love and

affection.

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

Sr.No.

Particulars

Amount awarded

1.

Monthly income

Rs. 7400/-

2.

40% future prospects

Rs. 2960/-

3.

½ deduction for self expenses

Rs. 5180/-

4.

Applying multiplier of 16 (5180x12x16)

Rs. 9,94,560/-

5.

Conventional heads

Rs. 30,000/-

6.

Total

Rs. 10,24,560/-

The award dated 5.8.2017 is modified to the extent that amount awarded of Rs. 6,13,400/- by the Tribunal is enhanced to Rs. 10,24,560/-.

The claimants shall be entitled to the enhanced amount alongwith interest at the rate of 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 aforesaid terms.