**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-1801-2001 (O&M)
Date of decision: 22.12.2017

Manju Devi and others .... Appellants

Versus

Ram Kumar and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Gagandeep Rana, Advocate for
Mr. B.S.Rana, Advocate
for the appellants.

Mr.Suvir Dewan, Advocate
for respondent No.3.

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Avneesh Jhingan, J.

The present appeal has been filed against the award dated 02.02.2001 passed by Motor Accidents Claims Tribunal, Gurgaon (hereinafter referred to as the 'Tribunal').

The record of this case was burnt and has been reconstructed from the salvaged record and copies supplied by counsels, subject to all just exceptions.

On 08.09.1997, Bhagat Singh, aged 22 years, was having a trial of motorcycle bearing registration No. HRP-726. The said motorcycle was hit by a rashly and negligently driven truck bearing registration No.RJ-14G-1357 (for short, 'the offending vehicle"). As a result of the accident, Bhagat

Singh suffered multiple injuries and ultimately succumbed to his injuries on the way to Pushpanjli Hospital, Gurgaon. FIR No.318 was registered at Police Station Bilaspur.

In a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') filed by the legal heirs of the deceased, the Tribunal awarded a sum of Rs.2,00,000/- along with interest @ 12% per annum. The compensation awarded included Rs.8,000/- for funeral expenses.

I have heard learned counsel for the parties and perused the paper book and relevant documents produced by them.

The parties have not disputed facts regarding involvement of the offending vehicle, rash and negligent driving of the offending vehicle, monthly earning of the deceased and deduction made for self expenses.

Learned counsel for the appellants has argued that the learned Tribunal has not awarded future prospects while calculating the loss of dependency. He further contended that the deceased was 22 years of age, Tribunal erred in applying the multiplier of 16. His grievance is that the amount awarded for funeral expenses is on the lower side and no amount is awarded for loss of consortium and loss of estate.

Learned counsel for the Insurance Company argued that as there was no established income, no future prospects should be awarded. He argued that the accident was of the year 1997 and the conventional heads according to the price indexing prevalent at that time should be awarded. He could not raise any serious objection with regard to the multiplier in view of the Hon'ble Apex Court in case ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.***

The contentions raised by learned counsel for the appellants deserve acceptance in view of the decisions of the Hon'ble Apex Court in ***National Insurance Company Ltd.'s case (supra), Sarla Verma and others's case (supra)*** and ***Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017,*** wherein it was held that where the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects are to be awarded.

The Hon'ble Apex Court in ***National Insurance Company Ltd.'s case (supra)*** has held that the amount of Rs.70,000/- is to be awarded under the conventional heads i.e Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium.

In ***Hem Raj's case (supra),*** it has been held that even where the income is assessed on the basis of minimum wages prevalent at the time of accident even in such cases future prospects have to be added.

In ***Sarla Verma's case (supra),*** the Hon'ble Apex Court has held that where the deceased was in the age group of 15 to 25, a multiplier of 18 has to be applied.

For the reasons mentioned above and the decisions cited above, the compensation is recalculated as under :-

Annual income	Rs.1500x12=18,000/-
Add 40% future prospects	Rs.7200/-
Total income	Rs.25,200/-
1/3rd deduction for self expenses	Rs.8400/-
Dependency	Rs.16,800/-
Applying multiplier of 18	Rs.3,02,400/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.3,72,400/-

The award dated 02.02.2001 is modified to the extent that the amount awarded by the Tribunal of Rs.2,00,000/- is enhanced to Rs.3,72,400/-.

The claimants would be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

22.12.2017
anju

1.Whether the order is speaking/reasoned: Yes/No
2.Whether the order is reportable : Yes/No