

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

FAO No. 4358 of 2012

DATE OF DECISION : 15.12.2017

Sarabjeet Kaur and another

.... APPELLANTS

Versus

Rajinder Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Parminder Singh, Advocate,
for the appellants.

Mr. Nitin Kamboj, Advocate, for
Mr. Munish Mittal, Advocate,
for respondent No.1.

Mr. Sandeep Suri, Advocate,
for respondent No.3.

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AVNEESH JHINGAN, J. (Oral)

The present appeal is against the award dated 03.12.2011 passed by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal').

Jarnail Singh, aged 45 years, retired Subedar from Indian Army, died in a motor vehicular accident, that occurred on 05.05.2009. He was riding a motor cycle bearing registration No. HR 05N 9593. The said motor cycle was struck by a rashly and negligently driven jeep bearing registration No. HR-45A-3849.

A claim petition under Section 166 of the Motor Vehicles Act, 1966 (for short, 'the Act') was filed by legal heirs of the deceased. The Tribunal awarded a sum of ₹ 3,87,200/- along with interest at the rate of 6% per annum. The said amount included ₹ 5,000/- for funeral expenses; ₹ 2,000/- for loss of love and affection and ₹ 5,000/- for loss of consortium.

I have heard learned counsel for the parties and perused the paper book and record.

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

Learned counsel for the appellants argued that the deceased was 45 years of age and his date of birth was 06.04.1964. The Tribunal has assessed his earning as ₹ 3,600/- per month, which is below the minimum wages for unskilled labourer prevalent at that time. He further contended that no future prospects have been awarded. His grievance is that the amount awarded under the conventional heads is also on the lower side.

Learned counsel for respondent No.3 – Insurance Company defended the award and resisted any further enhancement. He contended that the deceased was above 45 years of age and hence, multiplier of 13 should have been applied, instead of 14. His grievance is that the amount for loss of love and affection has wrongly been awarded. He could not raise any serious objection to the awarding of future prospects and enhancement of compensation under the conventional heads, in view of latest decision of the

Hon'ble Apex Court in **National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017.**

The deceased was an Ex-Armyman, aged 45 years. In such circumstances, it would not be appropriate to equate him with an unskilled labourer. The minimum wages of an unskilled labourer prevalent at the time of the accident in the State of Haryana was ₹ 3,840/- per month. The Tribunal, while calculating the loss of dependency, assessed earning of the deceased less than the said amount. In the facts and circumstances of the case, keeping in view the minimum wages prevalent at the time of the accident and fact that the deceased was an Ex-Armyman, his monthly income is taken as ₹ 4,000/-.

The contentions raised by learned counsel for the appellants with regard to future prospects and enhancement of amount under the conventional heads deserve acceptance, in view of decision of the Hon'ble Apex Court in **Pranay Sethi's case** (supra). The Hon'ble Apex Court has held that if the deceased was in the age group of 40-50 years and had a permanent job, 30% future prospects should be awarded. It has been further held that a sum of ₹ 70,000/- is to be awarded under the conventional heads, i.e. ₹ 15,000/- for loss of estate; ₹ 40,000/- for loss of consortium and ₹ 15,000/- for funeral expenses. No amount is to be awarded for loss of love and affection.

The contention raised by learned counsel for respondent No.3 –

Insurance Company that the multiplier of 13 should have been applied, as age of the deceased was 45 years plus, cannot be accepted. The date of birth of the deceased is not in dispute. According to the said date of birth, at the time of the accident, age of the deceased was 45 years and 1 month. The Hon'ble Apex Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*, has given a table, according to which if the deceased was in age group of 41-45 years, multiplier of 14 should be applied and multiplier of 13 is to be applied, if the deceased was in age group of 46-50 years. In the present case, admittedly, the deceased had not attained the age of 46 years. Hence, he would fall in the age group of 41-45 years and multiplier of 14 has rightly been applied by the Tribunal.

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

Annual earning of the deceased	= ₹ 48,000/-
Plus 30% future prospects	= ₹ 14,400/-
Total	= ₹ 62,400/-
1/3 rd deduction for self expenses	= ₹ 20,800/-
Dependency	= ₹ 41,600/-
Compensation to be awarded by applying multiplier of 14	41,600 x 14 = ₹ 5,82,400/-
Loss of estate	₹ 15,000/-
Loss of consortium	₹ 40,000/-
Funeral expenses	₹ 15,000/-
Total	₹ 6,52,400/-

Consequently, the award dated 03.12.2011 is modified to the extent that the compensation of ₹ 3,87,200/- awarded by the Tribunal is enhanced to ₹ 6,52,400/-.

The appellants shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

December 15, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes