

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

FAO-4075-2014 (O&M)

Date of decision: 04.12.2017

Nirmala Devi and another

.... Appellants

Versus

Manohar Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Ishan Cooner, Advocate
for the appellant.

Mr. Eklavya Darshi, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 10.12.2013 passed by Motor Accidents Claims Tribunal, Panchkula (hereinafter referred to as the 'Tribunal').

On 09.03.2012, Dharmender Singh @ Rajat, was returning home on his motorcycle bearing registration No.HR-49-B-7593. On his wayback, the motorcycle was struck by rashly and negligently driven Tata 407 bearing registration No. HP-12-3413. As a result of the accident, Dharmender Singh @ Rajat lost his life. FIR No.80 dated 10.03.2012 was registered at Police Station Pinjore.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal after appreciating the facts and considering the

evidence, awarded a sum of Rs.5,30,000/- along with interest @ 7.5% per annum.

The present appeal has been filed for enhancement of compensation.

I have heard the learned counsel for the parties and have perused the paperbook.

Learned counsel for the appellants has argued that the Tribunal erred in taking annual income of the deceased as Rs.30,000/-. The deceased was 17/18 years of age and a bright student, his claim is that at least minimum wages should have been considered.

Learned counsel for the Insurance Company has argued that the Tribunal has awarded the just and equitable amount according to the facts of the present case.

From the reading of the award, contradictions are evident. In para 13 of the award, the Tribunal has specifically held that the claimants have failed to prove that the deceased was 17/18 years old and a bright student. In the next para of the award, the Tribunal relied upon the **Kishan Gopal and another vs. Lala and others, 2013 ACJ 2594 (SC)** and **Lata Wadhwa vs. State of Bihar, 2001 ACJ, 1735 (SC)**. The said cases dealt with the accident where the deceased were below 15 years of age. The Tribunal recorded that the facts of the present case are identical to the cases referred above. In the same para, the Tribunal has applied multiplier of 18 stating that it is the suitable multiplier according to the age, depicted in post-mortem report.

In such circumstances, without expressing any opinion on the merits of the case, it is deemed appropriate to remit the matter back to the Tribunal to decide the quantum of compensation afresh. The parties shall be at liberty to adduce afresh evidence, if so required.

Parties are directed to appear before the Tribunal on 10.01.2018.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

04.12.2017
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1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No