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

**FAO-9276-2014
Decided on: 14.12.2017**

Kulwinder Kaur and others .... Appellants

Versus

Mahinga Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Talwar, Advocate
for the appellants.

Mr. Yogesh Gupta, Advocate,
for respondent No.3-Insurance Co.

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AVNEESH JHINGAN, J (ORAL)

The present appeal has been filed against the award dated 02.01.2014 passed by Motor Accidents Claims Tribunal, Patiala (for short the 'Tribunal').

Satnam Singh aged 43 years, lost his life in a motor vehicular accident that occurred on 19/20.02.2012 midnight. He was travelling in a tanker bearing registration No. HR-37A-7713. The tyre of the tanker got punctured, the driver was replacing the said tyre, in the meantime, a rashly and negligently driven truck bearing registration No. HR-37-7246 (for short 'offending vehicle') hit against Satnam Singh, due to which, he suffered serious injuries. He was taken to Civil Hospital, Phillaur where he was declared dead by the doctor. A case was registered at police station, Phillaur.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow and two children of the deceased. The Tribunal after appreciating the facts and considering the evidence produced, awarded a sum of Rs.7,55,000/- along with interest @ 7% per annum.

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The present appeal has been filed for enhancement of compensation.

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

Learned counsel for the appellants argued that the Tribunal while calculating loss of dependency has not added future prospects. His grievance is that no amount has been awarded for loss of estate.

Learned counsel for the Insurance Company defended the award and argued that no future prospects are required to be awarded as the amount awarded under the conventional heads is on the higher side. He further argued that 1/4th deduction for self expenses have been made whereas the deceased was survived by three dependents.

Learned counsel for the appellants has no objection in case 1/3rd deduction for self expenses is made as the law is settled in this regard by the decision of Hon'ble Apex Court in ***Smt. Sarla Verma and others*** vs. ***Delhi Transport Corporation and another (2009) 6 SCC 121***.

The contention raised by the learned counsel for the appellants is supported by the decision of the Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017***. The Hon'ble Apex Court has held that where the deceased was self-employed or having a fixed salary and in the age group of 40 to 50, 25% future prospects should be awarded.

The Hon'ble Apex Court in case of ***Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017 decided on 22.11.2017*** has held that even where the income is assessed relying upon the minimum wages prevalent at the time of accident in those cases also, the future prospects should be awarded.

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The Hon'ble Apex Court in case of **National Insurance Company (supra)** has further held that Rs.70,000/- would be awarded under conventional heads (i.e. Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium). Since in the present case, the compensation awarded is being re-looked, the amount awarded under the conventional heads would be made in consonance with the decision of the Hon'ble Apex Court.

In view of the discussion made above and the case law cited, the compensation is re-calculated as under:-

Annual Earnings	Rs. 60,000/-
Add 25% Future prospects	Rs. 15,000/-
Total income	Rs.60,000+15,000=Rs.75,000/-
1/3rd deduction for self expenses	Rs.25,000/-
Total	Rs.75,000-25,000=Rs.50,000/-
Applying multiplier of 14	Rs.50,000x14=Rs.7,00,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Grand Total	Rs.7,70,000/-

The award dated 02.01.2014 is modified to the extent that the amount already awarded of Rs.7,55,000/- is enhanced to Rs.7,70,000/-.

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

Appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

14.12.2017
Dinesh

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No

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