

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

FAO-6163-2017 (O&M)
Date of decision: 05.12.2017

Navdeep Singh and another Appellants

Versus

Jaswant Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.S.S.Sarwara, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 01.05.2017 passed by Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal').

Prabhjot Kaur, aged 31 years, lost her life in a motor vehicular accident that occurred on 23.05.2016. She was the pillion rider on TVS Vigo Scooter. The said scooter was struck by rashly and negligently driven Innova Car bearing registration No.PB-10-DK-5094 (for short, 'the offending vehicle'). As a result of the accident, she suffered grievous injuries and was taken to Hospital where she was declared brought dead. FIR was registered.

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

The Tribunal appreciating the facts and considering the evidence, awarded a sum of Rs.54,31,880/- but no interest was awarded. The interest was to be paid if the amount was not paid within a specified period. The said amount awarded included Rs.1,25,000/- awarded under the heads for loss of consortium and funeral expenses.

The present appeal has been filed for enhancement of compensation.

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

No dispute has been raised by the parties with regard to the facts of case i.e. involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased, deceased was a teacher in a Government school, deduction made for self expenses and the multiplier applied.

The only three issues are involved in the present appeal. Firstly, no future prospects have been added by the Tribunal, while calculating the compensation. Secondly, the amount awarded under the conventional heads needs to be modified. Thirdly, the Tribunal ought to have awarded interest on the amount awarded and no reasons have been mentioned for not awarding the statutory interest.

Learned counsel for the appellants has argued that the deceased was a Government employee, aged 31 years, and her salary was proved. The Tribunal erred in not adding future prospects. He argued that no amount has been awarded for loss of estate. He further argued that the

Tribunal ought to have awarded interest on the amount awarded. His grievance is that no reasons have been mentioned for not awarding the statutory interest.

Learned counsel for respondent No.3 defended the award but could not raise any serious objection with regard to the future prospects in view of the decision of the Hon'ble Apex Court in case of **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.** She further argued that amount of Rs.1,25,000/- has already been awarded for loss of consortium and funeral expenses which is on the higher side. She contended that the said amount awarded should be made in consonance with the latest decision of the Hon'ble Apex Court in **National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017.**

Since there is no dispute with regard to the fact that the deceased was a Government employee and aged 31 years. In such cases as per the decision of **Sarla Verma's case (supra)**, 50% future prospects has to be awarded. The loss of dependency calculated by the Tribunal of Rs.53,06,880/- is not disputed. 50% of the said amount is awarded for future prospects i.e. Rs.26,53,440/-.

The Tribunal has awarded Rs.1 lakh for loss of consortium and Rs.25,000/-for funeral expenses. As per the decision of the Hon'ble Apex Court in **National Insurance Company Ltd.'s case (supra)**, Rs.70,000/- has 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. The amounts awarded under the conventional heads are restricted to Rs.70,000/- and are awarded as per the decision referred above.

The contention raised by learned counsel for the appellants with regard to awarding of interest deserves acceptance. Section 171 of the Act provides for the statutory interest. A perusal of the award will show that the Tribunal has not dealt with the awarding of interest.

The Hon'ble Apex Court in case **Dharampal and others vs. U.P. State Road Transport Corpn. 2008(12) SCC 208** has held as under :-

“8. As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.”

In **National Insurance Company Ltd. vs. Keshav Bahadur, reported in 2004(2) RCR (Civil) 99 : (2004) 2 SCC 370** this court has held that the provisions of the Act require payment of interest in addition to compensation already determined. Even though the expression 'may' is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.

Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest.

In the above referred decision, the Hon'ble Apex Court has held that the Tribunal while awarding compensation should deal with the awarding of interest separately.

The award dated 01.05.2017 is modified to the extent that the amount awarded by the Tribunal of Rs.54,31,880/- is enhanced by an amount of Rs.25,98,440/-.

The claimants would be entitled to interest on the amount awarded by Tribunal and enhanced amount @ 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

05.12.2017
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1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : Yes