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

**FAO No.5413 of 2002
Date of Decision: 05.12.2018**

Smt. Kamlesh and another

Appellants

Versus

Krishan Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rishab Lohan, Advocate for
Mr. R.N. Lohan, Advocate
for the appellants.

None for the respondents inspite of service.

AVNEESH JHINGAN, J (Oral):

The award dated 25.07.2002 passed by the Motor Accident Claims Tribunal, Hisar [hereinafter referred to as 'the Tribunal'] has been assailed in appeal by widow and minor daughter of Bhup Singh @ Dabli for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The driver of the bus bearing registration No. HR16-PA-0420 [hereinafter referred to as 'offending vehicle']; owner of the offending vehicle i.e. General Manager, Haryana Roadways, Bhiwani Depot, Bhiwani and State of Haryana have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts of the case are that on 31.01.1999, Bhup Singh alongwith Baljit Singh, Bimla and other persons was travelling on a Peter Rehra. When they reached near brick-kiln owned by Kuldip Singh in the area of village Prem Nagar, a rashly and negligently driven offending vehicle hit their vehicle. As a result of the impact, the offending vehicle turned turtle due to which Bhup Singh and other persons suffered grievous injuries. Bhup Singh was taken to PGIMS, Rohtak where he remained admitted for 22 days. He was admitted again on 01.03.1999 and ultimately succumbed on 16.03.1999 in the Hospital.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. Respondents No.1 to 3 were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹4,24,000/- alongwith interest @ 9% per annum. The said amount included ₹40,000/- for medical expenses.

In the claim petition, it was pleaded that the deceased was dealing with the sale and purchase of buffaloes and was earning ₹6,000/- per month. Albeit, the claimants failed to adduce any

cogent evidence with regard to occupation or monthly earning of the deceased, the Tribunal assessed ₹3,000/- as monthly income of the deceased, made 1/3rd deduction for self-expenses and applied multiplier of '16'.

Heard learned counsel for the appellants and perused the paper book.

Learned counsel for the appellants contends that no future prospects have been awarded and multiplier of '16' has wrongly been applied as deceased was 20 years old. His grievance is that no amount is awarded under the conventional heads.

The contentions raised by learned counsel for the appellants deserves acceptance. Having due regard to the decision of the Supreme Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157** and **Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,** 40% future prospects are awarded. The claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- is awarded to the widow for loss of consortium.

The deceased was 20 years old, in consonance with the decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,** multiplier of '18' is applied.

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

Particulars	Amount (in ₹)
Monthly income of the deceased assessed	3,000/-
40 % Future Prospects	1,200/-
Sub Total	4,200/-
1/3 rd deduction for self expenses	1,400/-
Monthly Dependency	2,800/-
Annual Dependency	33,600/-
Applying multiplier of 18	6,04,800/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Loss of consortium to widow	40,000/-
Medical expenses as awarded by the Tribunal	40,000/-
Grand Total	7,14,800/-

The award dated 25.07.2002 is modified to the extent that amount of ₹424000/- awarded by the Tribunal is enhanced to ₹7,14,800/-. The amount awarded for loss of consortium to widow shall be disbursed to the widow and the balance amount shall be disbursed to the claimants in the same proportion as was held by the Tribunal.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

December 05th, 2018
pankaj baweja

1. Whether speaking/ reasoned

:

Yes/ No
2. Whether reportable

:

Yes/ No