201

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

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**FAO No.2978 of 2001
Date of Decision: 27.11.2018**

Parminderjit Kaur and others

Appellants

Versus

S. Jagjit Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Neeraj Khanna, Advocate
for the appellants.

Mr. Sandeep Suri, Advocate
for the Insurance Company.

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AVNEESH JHINGAN, J (Oral):

The award dated 02.03.2001 passed by the Motor Accident Claims Tribunal, Amritsar [for brevity 'the Tribunal'] has been assailed by legal heirs of Parkash Singh (deceased), seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

Widow and two major sons are the appellants. The owner of truck bearing registration No.PB02-H-9665 (hereinafter referred to as 'offending vehicle'); driver of the offending vehicle and insurer of the offending vehicle i.e. National Insurance Co. Ltd. have been arrayed as respondents No.1 to 3 respectively, in the present appeal.

The brief facts emanating from the record are that on 20.03.1997, deceased was going on his scooter from Chheharta to Putligarh. When he reached near Ranjit Hospital, his scooter was struck by a rashly and negligently driven offending vehicle. As a result of the impact, he suffered serious injuries. He was taken to Ranjit Hospital. Thereafter, he was taken to Dayanand Medical College and Hospital, Ludhiana where he succumbed to the injuries suffered by him in the accident.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced held that accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹9,74,000/- alongwith interest @ 6% per annum.

The deceased was a government employee and 49 years old at the time of accident. His monthly salary was proved as ₹12,475/- by producing salary certificate (Ex.R2). The salary certificate was further supported by deposition of RW1.

Heard learned counsel for the parties, perused the paper book and relevant documents produced.

Learned counsel for the appellants argued that the Tribunal erred in applying the split multiplier. He contended that future prospects and compensation under conventional heads have not been awarded.

Learned counsel for the insurer vehemently defended the award and resisted any further enhancement.

No dispute has been raised by the parties with regard to monthly income of the deceased to be taken as Rs.12,000/- and 1/3rd deduction to be made for self expenses.

The contentions raised by learned counsel for the appellants deserves acceptance. In view of decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157,*** 30% future prospects are awarded as deceased was 49 years old. The claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- is awarded to widow for loss of consortium.

The Tribunal has not given any cogent reasons for applying the split multiplier. The reliance is placed upon the decision of the Supreme Court in case of ***Sri K.R. Madhusudhan and Others Vs. Administrative Officer and Another 2011 (4) SCC 689***, wherein it was held as under:-

> *"In view of this evidence the Tribunal should have considered the prospect of future income while computing compensation but the Tribunal has not done that. In the appeal, which was filed by the appellants before the High Court, the High Court instead of maintaining the amount of compensation, granted by the Tribunal reduced the same. In doing so, the High Court not given any reason. The High Court introduced the concept of split multiplier and departed from the multiplier used by the Tribunal without disclosing*

<u>*any reason therefore.*</u>

The High Court has also not considered the clear and corroborative evidence about the prospect of future increment of the deceased. When the age of the deceased is between 51 and 55 years the multiplier is 11, which is specified in the II Column in the II Schedule in the Motor Vehicles Act, and the Tribunal has not committed any error by accepting the said multiplier. This Court also fails to appreciate why the High Court chose to apply the multiplier of 6".

<u>*(emphasis supplied)*</u>

In the above mentioned decision, the Supreme Court specifically stated that the High Court erred in introducing split multiplier and departed from the multiplier applied by the Tribunal without disclosing any reason.

As per decisions of the Supreme Court in case of <u>***Sube Singh and another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18***</u> and <u>***Pranay Sethi's***</u> case (supra), multiplier has to be applied as per age of the deceased. In the present appeal, multiplier of '13' is to be applied as deceased was 49 years old.

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

Particulars	***Amount (in ₹)***
Monthly income of the deceased assessed	12,000/-
30 % Future Prospects	3,600/-
Sub Total	15,600/-
1/3rd deduction for self expenses	5,200/-
Monthly Dependancy	10,400/-
Annual Dependancy	1,24,800/-
Applying multiplier of 13	**16,22,400/-**
Funeral Expenses	**15,000/-**

Particulars	*Amount (in ₹)*
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**16,92,400/-**

The award dated 02.03.2001 is modified to the extent that amount awarded of ₹9,74,000/- by the Tribunal is enhanced to ₹16,92,400/-.

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 allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

November 27, 2018
pankaj baweja

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No