

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

FAO No. 2367 of 2003 (O&M)
Date of decision: 19.01.2018

Geeta and others

.... Appellants

Versus

Ved Parkash and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Ajit Kumar Sharma, Advocate for
Mr. R.D.Yadav, Advocate
for the appellants.

Mr.R.N.Singal, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 14.03.2003 passed by Motor Accidents Claims Tribunal, Gurgaon (hereinafter referred to as 'Tribunal').

On 03.08.2001, Jag Mohan, aged 30 years, was standing on the kachha portion of the road, when a rashly and negligently driven TATA 407 bearing registration No.DL-IL/A-0597 (for short, 'the offending vehicle') struck him. He received multiple injuries including head injury. He was shifted to Kalyani Hospital, Gurgaon where he succumbed to his injuries. FIR No.207 dated 04.08.2001 was registered at Police Station Sohna.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow, three children and parents of the deceased.

The Tribunal awarded a sum of Rs.2,92,000/- along with interest @ 9% per annum.

The present appeal has been filed against the award for enhancement of compensation.

I have heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

The parties have not disputed the facts regarding involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased, multiplier applied and the earning assessed of the deceased by the Tribunal.

The grievance raised in the appeal is that no future prospects have been awarded. The Tribunal erred in making deduction of 1/3rd for self expenses as the deceased was survived by six dependants. Further, the grievance is that the amounts awarded for funeral expenses and loss of consortium are on the lower side and no amount has been awarded for loss of estate.

The contentions raised in the appeal deserve acceptance inspite of the resistance by the Insurance Company.

The issues raised are duly supported by the decision of the Hon'ble Apex Court in case **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77** and **National**

Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil)

No.25590 of 2014 decided on 31.10.2017 wherein it was held that where the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects are to be awarded.

The Hon'ble Apex Court in **National Insurance Company Ltd.'s case (supra)** has held that the amount of Rs.70,000/- is 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.

In **Sarla Verma's case (supra)**, the Hon'ble Apex Court has held that where the deceased is survived by 4 to 6 dependants, 1/4th deduction for self expenses is to be made.

For the reasons mentioned above and the decisions cited above, the compensation is recalculated as under :-

Annual income	Rs.25,200/-
Add 40% future prospects	Rs.10,080/-
Total income	Rs.35,280/-
1/4 th deduction for self expenses	Rs.8,820/-
Dependency	Rs.26,460/-
Applying multiplier of 17	Rs.4,49,820/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.5,19,820/-

The award dated 14.03.2003 is modified to the extent that the amount awarded by the Tribunal of Rs.2,92,000/-is enhanced to Rs.5,19,820/-.

The claimants would be entitled to enhanced amount along

with interest @ 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

19.01.2018

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

2. Whether the order is reportable : Yes/No