IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 479 of 2003
Date of decision:- 02.05.2018

Phuli Devi and another

---Appellants.

Versus

Jai Bhagwan and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Sandeep Kotla, Advocate,
for the appellants.

None for the respondents.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 31.07.2002 passed by Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal').

On 29.03.2000, a motor vehicular accident took place. Devi Lal, aged 30 years, along with Suresh Kumar was going from Hisar to Mandi Adampur on scooter bearing registration No.HR-20-C-7533. At about 7.00 P. M., near village Landhri Pabra, the scooter was struck by a rashly and negligently driven jeep bearing registration No. RJ-10-C-1287 (in short 'the offending vehicle'). As a result of the impact, both the scooter riders fell down and suffered injuries. Suresh Kumar succumbed to injuries at the spot. In this regard, FIR No.42 dated 29.03.2000, was registered at Police Station, Agroha.

The unfortunate parents, who lost their 21 years old young son, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. Though it was claimed in the claim petition that deceased was working as a Shocker Mechanic and was earning Rs.15,000/- per month, but the claimants failed to prove the occupation and the earning of the deceased. The Tribunal assessed the income of the deceased at Rs.2,700/- per month. The Tribunal after considering the facts, awarded a sum of Rs.1,39,000/- along with interest at the rate of 9% per annum. The said amount included Rs.10,000/- towards funeral expenses.

The present appeal has been filed by the appellants for enhancement of compensation.

Parties have not disputed the income of the deceased as assessed by the Tribunal. Learned counsel for the appellants argued no future prospects have been added. He further argued that the Tribunal has erred in applying the multiplier considering the age of the parents of the deceased and the amount awarded under the conventional heads is on the lower side.

No one has put in appearance on behalf of the respondents, despite service.

The contentions raised by the learned counsel for the appellants, deserve acceptance.

As per the decision of the Supreme Court in the case of ***Sarla Verma and Others Vs. Delhi Tranport Corporation and Another, (2009) 6 SCC 121***, 1/2nd deduction for self expenses is to be made where the deceased is bachelor. The Tribunal erred in applying the multiplier after considering the age of the parents of the deceased. The multiplier is to be applied taking into consideration the age of the deceased. Reliance in this regard is placed upon the decision of the Supreme Court in ***Shri Nagar Mal Vs. Oriental Insurance Company Ltd.*** (Civil Appeal No.448 of 2018, decided on 19.01.2018) and ***Sube Singh and another Vs. Shyam Singh (Dead) and Others*** (Civil Appeal No.7176 of 2015 decided on 09.02.2018). The Supreme Court relying upon its earlier decisions in ***National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157*** and ***Smt. Sarla Verma and Others Versus Delhi Transport Corporation and Another 2009 (6) SCC 121*** has held that multiplier having regard to the age of the deceased should be applied.

Since the deceased was 21 years of age at the time of accident, the multiplier of 18 is to be applied.

In consonance with the decisions of the Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd., 2017 DNJ 1102***, 40% future prospects are to be added. It has further been held that the amounts of Rs. 15,000/- for the loss of estate and Rs.15,000/- for funeral expenses are to be awarded.

For the reasons mentioned above, the compensation is recalculated as under:

Sr. No.	*Heads*	*Calculations*
(i)	Salary	₹2,700/- per month
(ii)	40% added towards future prospects	₹2,700+1,080=3,780/- per month
(iii)	1/2nd deduction towards self expenses of the deceased as he was bachelor	₹3,780-1,890=1,890/- per month
(iv)	Multiplier of 18 applied	₹1,890X12X18= 4,08,240/-
(v)	Loss of estate	₹15,000/-

Sr. No.	*Heads*	*Calculations*
(vi)	Funeral expenses	₹15,000/-
	Total Compensation Awarded (iv)+(v)+(vi)	**₹4,38,240/-**

The award dated 31.07.2002 passed in petition No.79 of 06.08.2000 is modified to the extent that the amount awarded of ₹1,39,000/- is enhanced to ₹4,38,240/-.

The appellants/claimants would be entitled to interest at the rate of 6% per annum on the enhanced amount from the date of filing of the claim petition till realization of the amount.

Accordingly, the present appeal is partly allowed to the above extent.

02.05.2018 **(AVNEESH JHINGAN)**
Riya Grover **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*