

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

FAO No.4718 of 2004 (O&M)
Date of decision: 19.01.2018

Poonam Maini and others

.... Appellants

Versus

Deepak Khullar and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Vivek Suri, Advocate
for the appellants.

Mr. Ashwani Gaur, Advocate
for respondent No.1.

Mr.Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.2-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 16.08.2004 passed by Motor Accidents Claims Tribunal, Panchkula (hereinafter referred to as 'Tribunal').

In a motor vehicular accident that occurred on 21.04.2002, Naresh Kumar Maini, aged 37 years, suffered grievous injuries. He was taken to Government Hospital, Panchkula and ultimately, lost his life on 22.04.2002 in Mukat Hospital and Heart Institute, Sector 34-A, Chandigarh. He was going on his scooter bearing registration No.CH-01-0835. The said scooter was hit by rashly and negligently driven Indica Car bearing

registration No.HR-31C-0036 (for short, 'the offending vehicle').

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

The Tribunal awarded a sum of Rs.5,61,520/- along with interest @ 6% per annum.

I have heard learned counsel for the parties, perused the paper book and record.

The parties have not disputed the facts regarding the age of the deceased, earning of the deceased and deductions made for self expenses.

The grievances are that multiplier of 12 has wrongly been applied, no future prospects have been awarded, no compensation under conventional heads have been awarded and lastly the medical expenses incurred have not been fully reimbursed.

The contention raised that the multiplier of 12 has wrongly been applied deserves acceptance in view of the law laid down by the Hon'ble Apex Court in case **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.** The Hon'ble Apex Court has held that where the deceased was in the age group of 36 to 40, a multiplier of 15 should have been applied.

The Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017** has 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. It has further been 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.

The claimants produced medical bills worth Rs.35,000/- of Mukat Hospital before the Tribunal. The said bills were exhibited as P4 to P6. The Tribunal only awarded Rs.10,000/- on the ground that the said bills were not proved by the person who treated the deceased. The genuineness of the bills were not disputed. It is not disputed that Naresh Kumar Maini (deceased) after accident was taken to Mukat Hospital and Heart Institute, Sector 34-A, Chandigarh where he ultimately succumbed to injuries. In such circumstances, the balance amount of Rs.25,000/- for medical expenses is also being awarded

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

Annual income	Rs.69,000/-
Add 40% future prospects	Rs.27,600/-
Total income	Rs.96,600/-
1/ ^{3rd} deduction for self expenses	Rs.32,200/-
Dependency	Rs.64,400/-
Applying multiplier of 15	Rs.9,66,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Medical expenses	Rs.35,000/-
Total	Rs.10,71,000/-

The award dated 16.08.2004 is modified to the extent that the amount awarded by the Tribunal of Rs.5,61,520/-is enhanced to

Rs.10,71,000/-.

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