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

FAO No.3234 of 2005
Date of Decision:13.12.2018

Smt. Manju Sharma and others ... Appellants

Vs.

Gaurav Bhawra and others ... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Naren Pratap Singh, Advocate
for the appellants.
Mr. Rajnish Malhotra, Advocate
for respondent No.3.

AVNEESH JHINGAN J. (Oral)

The award dated 02.04.2005 passed by the Motor Accident Claims Tribunal, Panchkula (for short 'the Tribunal') has been assailed by legal heirs of Bhupinder Nath alias Bhupinder Singh seeking enhancement of compensation awarded under Section 166 of Motor Vehicles Act, 1988 (for short "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 appellants are the widow and three minor children of the deceased. The driver of Maruti car bearing registration number HR-01D-0125 (hereinafter referred to as 'the offending vehicle'), owner and the insurer (i.e. The New India Assurance Company Limited) of the offending vehicle have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 29.12.2002, Bhupinder Nath alias Bhupinder Singh was going from Kalka to Pinjore by a three-wheeler bearing registration No.HR-68-0708 being driven by one Mukesh Kumar. When they reached near village

Seuri, the three wheeler was hit by the offending vehicle which was being driven by respondent No.1 in a rash and negligent manner. As a result of the accident, Bhupinder Nath sustained grievous injuries and was taken to Civil Hospital, Kalka where he was declared brought dead. FIR No.142 dated 29.12.2002 was registered at Police Station, Kalka.

In the claim petition filed under Section 166 of the Act, the Tribunal held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner and insurer were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹ 14,75,753/- along with interest @ 9 % per annum. The amount awarded included ₹2,000/- for funeral expenses and ₹ 5,000/- for loss of consortium.

In the claim petition, it was pleaded that the deceased was working as a conductor in the Haryana Roadways and his salary was proved by producing income tax returns as (Ex. P-1 to P-3) as ₹ 1,85,357/- per annum. After deduction of income tax, the salary was taken by the Tribunal as ₹ 1,69,472/-, 1/3rd deduction was made for self expenses and multiplier of 13 was applied.

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

Learned counsel for the appellants contends that the Tribunal erred in making deduction of 1/3rd for self-expenses as the deceased was survived by four dependents. His grievance is that no amount for future prospects has been awarded and the amount awarded under the conventional heads are on the lower side.

Learned counsel for the insurer while defending the award contends that there is no serious objection for awarding of future prospects and conventional heads as the same are in accordance with decision of the Apex Court in ***National Insurance Company Limited*** v. ***Pranay Sethi and others***; JT 2017 (10) SC 450**.**

The contentions raised by the learned counsel for the appellants deserve acceptance. The parties have not disputed the income assessed by the Tribunal and the multiplier applied.

As the deceased was 48 years of age at the time of accident and was a Government employee, having regard to the decision of Supreme Court in Pranay Sethi's case (supra), 30% future prospects are awarded. The claimants are entitled to ₹ 15,000/- each for funeral expenses and for loss of estate and ₹ 40,000/- is awarded for loss of consortium. As the deceased was survived by four dependents, in consonance with the decision of the Apex Court in the case of ***Smt. Sarla Verma and others*** v. ***Delhi Transport Corporation and another***; **2009 (6) SCC 121,** ¼th deduction for self-expenses is made.

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

Description	***Amount***
Annual Income Assessed	₹ 1,69,472/-
30% Future prospects	₹ 50,842/-
Total	₹ 2,20,314/-
¼ deduction for self expenses	₹ 55,079/-
After deduction total is	₹ 1,65,235/-
After applying the multiplier of 13 on the total amount of ₹ 1,65,235/- total is	₹ 21,48,055/-
After adding funeral expenses of ₹15,000/-, Loss of estate ₹15,000/- and Loss of Consortium ₹40,000/-, total is	₹ 22,18,055/-

Accordingly, award dated 02.04.2005 passed by the Tribunal is modified to the extent that amount of ₹ 14,75,753/- awarded by the

Tribunal is enhanced to ₹ 22,18,055/-. The appellants are entitled to the enhanced amount along with interest @ 7.5 % per annum from the date of filing of the claim petition till realization of the amount.

Consequently, appeal is allowed in the above said terms.

13.12.2018
rajeev

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**