801

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

FAO No.3333 of 2005 (O&M)

Date of Decision: 01.06.2018

Kamaljit Kaur and others

... Appellants

Versus

Raj Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Bansal, Advocate
for the appellants.

Mr. R.C. Kapoor, Advocate
for respondent No.3/Insurance Company.

*****

Avneesh Jhingan, J. (Oral)

The present appeal is against the award dated 23.04.2005, passed by the Motor Accident Claims Tribunal, Hoshiarpur (for short 'the Tribunal').

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 being aggrieved of compensation of Rs.4,75,400/- along with interest @ 6% per annum awarded under Section

166 of the Motor Vehicles Act (for short 'the Act'), on account of death of Parvinder Singh, aged 51 years, are in appeal for enhancement.

The brief facts for adjudication of the present appeal are that a motor vehicular accident took place on 24.09.2003. Parvinder Singh lost his life in the said accident. The accident was caused by rash and negligent driving of truck bearing registration No.PB-13-J-6765.

In the claim petition filed by the widow and two sons of the deceased, the Tribunal held that the accident occurred due to rash and negligent driving of the offending truck. A sum of Rs.4,75,400/- was awarded which included Rs.5,000/-for funeral expenses. The driver, owner and the insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

Learned counsel for the appellants contended that the deceased was in the Government service and was a Science Teacher. His salary was Rs.16,179/- per month and was proved vide Ex.A3 i.e. pay slip. In the deposition of Sunita Rani, Clerk, Government Senior Secondary School, Daffar, Dasuya, District Hoshiarpur, it came that the deceased was not an income tax assessee.

The grievance of the learned counsel for the appellants is that no future prospects have been awarded. The Tribunal erred in applying the multiplier of 4 and the amount awarded under the conventional heads is on the lower side.

Learned counsel for the Insurer defended the award, and resisted any enhancement. He argued that two sons of the deceased were major aged 19 and 22 years, in such circumstances, ½ deduction for the self expenses should be made.

There is no dispute on the fact that the deceased was a Teacher in a Government school and was drawing salary of Rs.16,179/- per month. The same was duly proved by exhibiting the pay slip and the deposition of AW3 Clerk of the Government School. For calculation purpose the salary is rounded off to Rs. 16,000/-.

Having due regard to the judgment of Hon'ble Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and others, 2017 AIR (SC) 5157***, the deceased was 51 years of age, 15% future prospects are to be added. The appellants would be entitled to Rs. 70,000/- 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 Tribunal erred in applying the multiplier of 4. As per the decision of Supreme Court in ***Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121***, multiplier of 11 is to be applied as deceased was 51 years of age at the time of accident.

The Tribunal rightly made 1/3rd deduction for self expenses as the deceased was survived by three dependents. No doubt sons were aged 19 and 22 years, but they were still studying and were dependent on the deceased.

For the reasons mentioned above, the compensation is calculated as under :-

Sr. No.	***Heads***	***Calculations***
(i)	Monthly earning	₹ 16,000/- per month
(ii)	15% added towards future prospects	₹ 16,000 + 2400 = 18,400/- per month
(iii)	$1/3^{rd}$ deduction towards self expenses of the deceased	₹ 18,400 – 6133 = 12,267/- per month
(iv)	Multiplier of 11 applied	₹ 12,267 x 12 x 11 = 16,19,244
(v)	Loss of estate	₹ 15,000/-
(vi)	Funeral expenses	₹ 15,000/-
(vi)	Loss of consortium	₹ 40,000/-
	Total Compensation Awarded (iv) + (v) + (vi) + (vii)	**16,89,244/-**

The net effect is that award dated 23.04.2005 is modified to the extent that the amount awarded by the Tribunal of Rs.4,75,400/-/- is enhanced to Rs.16,89,244/-

The appellants would be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is party allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

June 01, 2018
sachin

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No