

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

Date of Decision:09.02.2018

(i) F.A.O. No. 2768 of 2007 (O&M)

Mithu Singh and others

.....Appellants

Versus

Boota Singh and another

.....Respondents

(ii) F.A.O. No. 2769 of 2007 (O&M)

Smt. Sukhpal Kaur and others

.....Appellants

Versus

Boota Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Manvinder Sidhu, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The appeals have arisen from award dated 03.03.2007 passed by the Motor Accidents Claims Tribunal, Sirsa (for short 'the Tribunal'). Since common questions of law and facts are involved in both the appeals, the same are being disposed of by common order.

The accident took place on 10.03.2005. Mahasha Singh aged 28 years was driving motor cycle bearing registration No. HR-20-H-7035. Angrej Kaur aged 40 years was the pillion rider. Near bus stand of village Mithri, an Indica Car bearing registration No.DL-3CV-8833 dashed into the motor cycle. Angrej Kaur sustained injuries and died on the spot. Mahasha Singh was shifted to hospital where he succumbed to his injuries.

First respondent is the registered owner of the car and it was

insured with the second respondent.

The legal heirs of deceased Angrej Kaur and Mahasha Singh filed separate claim petitions before the Tribunal under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The Tribunal in its award held that the accident occurred due to rash and negligent driving of the Car. The owner of the Car and the insurer were found jointly and severally liable to pay the compensation.

While assessing the compensation the Tribunal noted that Angrej Kaur was aged 40 years and Mahasha Singh was aged 28 years. Angrej Kaur was survived by five dependents. Mahasha Singh was survived by three dependents.

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The Tribunal assessed the monthly earning of Angrej Kaur at Rs.3000/-; applied the multiplier of 15 and 1/3rd deduction was made for self expenses. Rs.5000/- was awarded for transportation and funeral expenses and Rs.5000/- was awarded on account of loss of consortium. The compensation was awarded to the tune of Rs.3,70,000/- along with interest at the rate of 7.5% per annum.

Learned counsel appearing on behalf of the appellants assailed the award of the compensation by arguing that (i) no deduction for self expenses should have been made as the deceased was a housewife and (ii) the amount awarded for funeral expenses, transportation and loss of consortium is on the lower side and no amount has been awarded for loss of estate.

On the other hand learned counsel appearing on behalf of the insurer has supported the view taken by the Tribunal. He submits that

deduction for self expenses has to be made.

There is merit in the contentions raised by learned counsel for the appellants. A Division bench of this Court in case of **Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others** 2014(4) RCR (Civil) 895, held that since the income of the house wife is notional income, the deduction for self expenses is not warranted.

Having regard to the Constitutional Bench of Hon'ble Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others** 2017 AIR (SC) 5157, the appellants are also entitled to an amount of Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

As per the above discussion, the compensation is recalculated, as under:

Annual income	Rs.36,000/-
multiplier of 15	Rs.5,40,000/-
Conventional heads	Rs. 70,000/-
Total:	Rs.6,10,000/-

The award passed in MACT Case No.14 of 2005/2006 is modified to the extent that the amount awarded of Rs.3,70,000/- is enhanced to Rs.6,10,000/-.

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

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Learned counsel appearing on behalf of the appellants i.e. Legal heirs of Mahasha Singh assailed the award by arguing that (i) no future prospects had been added by the Tribunal for computing loss of

dependency and (ii) the amount awarded of Rs.10,000/- for funeral and transportation, loss of consortium is on the lower side. No amount has been awarded for loss of estate.

Learned counsel for the Insurer has supported the award. He argued that the multiplier of 18 has been wrongly applied keeping in view the age of the deceased.

The submissions made by learned counsel for the appellants have merits. Having due regard to the decision of Constitutional Bench of Hon'ble the Apex Court in case of **National Insurance Company Limited Versus Pranay Sethi and others** 2017 AIR (SC) 5157, and decision of Hon'ble the Apex Court in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)**, the appellants would be entitled to 40% future prospects and an amount of Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

Since the compensation awarded is being revisited, it would be appropriate that multiplier of 17 is applied keeping in view the decision of Hon'ble Apex Court in **Sarla Verma and others Vs. Delhi Transportation Corporation and another** (2009)6 SCC 121.

As per the discussion above, the compensation is recalculated as under:

Annual earning	Rs.36,000/-
1/3 rd deduction for self expenses	Rs.24,000/-
40% future prospects	Rs.9600/-
	Rs.33,600/-
Multiplier of 17	Rs.5,71,200/-
Conventional heads	Rs.70,000/-
Total:	Rs.6,41,200/-

The award passed in MACT Case No.16 of 2005/2006 is modified to the extent that the amount awarded of Rs.4,42,000/- is enhanced to Rs.6,41,200/-.

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

The appeals are partly allowed in the above said terms.

09.02.2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No