

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3250 of 2007

Date of decision: 28.11.2018

Darshan Lal & Anr.

...Appellants

Versus

Bhinderjit Singh @ Gurjant Singh and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sushil Saini, Advocate
for the appellants.

Mr. B.S. Taunque, Advocate for respondent No.3.

AVNEESH JHINGAN, J. (ORAL)

The award dated 09.05.2007, passed by Motor Accident Claims Tribunal, Faridkot (for short, 'the Tribunal') has been assailed by the legal heirs of Kamal Kumar for enhancement of compensation awarded under Section 166 of the 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 driver of bus bearing registration No.PB-10-AP-0677 (hereinafter referred to as 'offending vehicle'), owner and insurer of offending vehicle i.e. National Insurance Company Ltd. has been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts emanating from the paper-book are that on 09.06.2006 Kamal Kumar along with his friend Jaspreet Singh was going from Kotkapura towards Samalsar in a car bearing registration No. PB-10-BP-5931. When they reached near Green Dhaba on Kotkapura-Moga road, their car was hit by a rashly and negligently driven offending vehicle. As a result of the accident,

Kamal Kumar sustained injuries. He was taken to Civil Hospital Kotkapura, where he succumbed to injuries. FIR No. 114, dated 09.06.2006, under Section 304-A IPC was registered at Police Station City Kotkapura.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and appreciating the evidence held that the accident occurred due to rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation along with interest. The Tribunal awarded a sum of ₹ 3,36,000/- along with interest @ 6% per annum.

The age of the deceased at the time of accident was 25 years. The claimants pleaded that the deceased was a commission agent and was working as a clerk with a Rice Mill, *albeit* the monthly income of the deceased was not substantiated by producing any cogent evidence. The Tribunal assessed the monthly earning of the deceased as ₹ 6,000/-, 1/3rd deduction for self-expenses was made for 2 years and 2/3rd deduction was made for next 10 years. Split multiplier of 2 & 10 was applied, considering the age of the mother of the deceased.

Heard learned counsel for the parties and perused the paperbook and the relevant documents.

Learned counsel for the appellants argues that no future prospects have been awarded and the Tribunal erred in applying split multiplier of 2 & 10. Further, that no amount under the Conventional Heads have been awarded. He contends that deduction has wrongly been made.

Learned counsel for the insurer contended that deceased was unmarried and 1/2 deduction for self expenses is to be made.

The parties have not disputed the monthly income of the deceased assessed by the Tribunal; the fact that the deceased 25 years of age at the time

of the accident and that he was unmarried.

Future prospects of 40% are awarded in consonance with the decisions of the Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 (4) RCR (Civil) 1009** and **Hem Raj Vs. Oriental Insurance Company Ltd., 2018 (2) PLR 480**. The appellants are entitled ₹ 15,000/- each for funeral expenses and loss of estate.

The Tribunal erred in applying the multiplier considering the age of the mother of the deceased. The deceased was 25 years old and as per the decision of Hon'ble Supreme Court in **Sarla Verma and Others Versus Delhi Transport Corp. and Anr: (2009) 6 SCC 121**, Multiplier of 18 is to be applied.

The issue that multiplier is to be applied considering the age of the deceased is no longer res-integra. The Supreme Court in the case of **Sube Singh and another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18**; has held as under:

“On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e. 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased. The legal position, however, is no more *res integra*. In the case of Munna Lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants.”

As the quantum of compensation is being revisited, the deduction for self expenses is made as per the Supreme Court Judgement in **Sarla Verma's case** (supra). Considering the fact that the deceased was a Bachelor.

½ deduction for self-expenses is made.

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

Monthly Income	₹ 6,000
Future Prospects 40%	₹ 2400/-
½ deduction	₹ 4200/-
Applying of 18 multiplier	18 (4200x12x18)=₹ 9,07,200/-
Funeral expenses	₹15,000/-
Loss of estate	₹ 15,000/-
Total	₹ 9,37,200/-

The award dated 09.05.2007 is modified to the extent that amount of ₹ 3,36,000/- awarded by the Tribunal is enhanced to ₹ 9,37,200/-.The claimants shall be entitled to the enhanced compensation along with interest @ 7.5% per annum from the date of filing of the claim petition till realization of amount.

Appeal is disposed of in the aforesaid terms.

November 28, 2018
Poonam (II)

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No