

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

FAO No.2902 of 2010 (O&M)

Date of decision: 29.05.2018

Sanoj and others

.... Appellants

Versus

Sajjan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ajit Kumar Sharma, Advocate for
Mr.R.D.Yadav, Advocate
for the appellants.

Avneesh Jhingan, J.

The present appeal has been filed against award dated 07.10.2009 passed by Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal').

Sanjay, aged 23 years, was travelling in an Indica car bearing registration No.RJ-02CA-2000. Near Bharat Petrol Pump, Saban Chowk on National Highway No.8, a truck bearing registration No.RJ-02GA-1075 (for short, 'the offending vehicle') overtook the car and without any indication suddenly applied brakes while coming in front of Indica car, as a result of which the car dashed into truck. Sanjay died at the spot. FIR No.218 dated 27.12.2007 was registered at Police Station Bawal.

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

The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of

the offending vehicle were held jointly and severally liable to pay compensation. The Tribunal assessed the monthly earning of the deceased as Rs.3,000/-, made 1/3rd deduction for self expenses, applied multiplier of 18 and awarded a sum of Rs.4,47,000/- along with interest @ 6% per annum. The amount awarded included Rs.5,000/- each for loss of estate, funeral expenses and loss of consortium.

The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellants contended that the Tribunal erred in assessing the monthly income of the deceased as Rs.3,000/- which is less than even the minimum wages prevalent at the time of accident for an unskilled labourer. His grievance is that no future prospects have been awarded and the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the insurer argued that since the claimants failed to prove the occupation and earning of deceased, no case for enhancement is made out.

In case, where there is no proof regarding occupation and earning of the deceased, the safest yardstick is to rely upon the minimum wages prevalent in the State at the time of accident. In December 2007, in the State of Haryana, the minimum wages for an unskilled labourer was Rs.3500/- per month. Thus, the compensation shall be calculated taking the monthly earning of the deceased as Rs.3500/-.

Having due regard to the decision of Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC)**

5157, 40% future prospects are to be added. The deceased was survived by two dependents, 1/3rd deduction has to be made and multiplier of 18 has to be applied. The appellants would be entitled to Rs.70,000/- under conventional heads i.e.Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium.

The compensation is recalculated as under :-

Monthly income	Rs.3500/-
40% future prospects	Rs.1400/-
Total income	Rs.4900/-
1/3rd deduction for self expenses	Rs.1633 /-
Dependency	Rs.3267/-
Applying multiplier of 18	Rs.7,05,672/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.7,75,672/-

The award dated 07.10.2009 is modified to the extent that the amount awarded by the Tribunal of Rs.4,47,000/- is enhanced to Rs.7,75,672/-.

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

29.05.2018
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- 1.Whether the order is speaking/reasoned: Yes/No
- 2.Whether the order is reportable : Yes/No