

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

FAO No. 1434 of 2011

DATE OF DECISION : 26.02.2018

Smt. Amarjit Kaur and others

.... APPELLANTS

Versus

Balbir Singh alias Biri and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Lalit Kumar Sharma, Advocate, amicus curiae,
for the appellants.

Mr. R.C. Gupta, Advocate,
for respondent No.3.

* * *

AVNEESH JHINGAN, J. (Oral)

This appeal arises from the award dated 03.04.2010 passed by the Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal').

2. On 02.09.2008, Dharam Pal, aged 32 years, was travelling in a jeep bearing registration No. PJI-2818. After crossing Police Station Naggal on Hissar-Ambala road, the jeep was hit by a rashly and negligently driven truck bearing registration No. PB-32B-2651 (for short, 'the offending vehicle'). As a result of the impact of the collision, jeep turned turtle, Dharam Pal sustained grievous injuries. Ultimately, he succumbed to the injuries.

3. Claim petition No. 82 dated 30.09.2008 under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of the deceased. The Tribunal awarded a sum of ₹ 6,01,360/- along with interest at the rate of 6% per annum. The amount awarded included ₹ 10,000/- for funeral expenses.

4. None appeared on behalf of the appellants, inspite of pass-over. Shri Lalit Kumar Sharma, Advocate, who is present in the court, is appointed as amicus curiae. Complete copy of the paper-book has been supplied to him. After going through the record and the paper-book, he has assisted the court on behalf of the appellants.

5. I have heard learned counsel for the parties, perused the paper book and the record.

6. The Tribunal, while awarding compensation, considered that the accident took place because of rash and negligent driving of the offending vehicle. The monthly income of the deceased was taken as ₹ 3,600/-.

7. The present appeal has been filed for enhancement of compensation. Learned counsel assailed the award arguing that monthly income of the deceased assessed by the Tribunal is on lower side; no future prospects have been added; the amount awarded for funeral expenses is on lower side; and no amount has been awarded for loss of estate and loss of consortium.

8. Learned counsel for respondent No.3 - Insurance Company

defended the award and argued that no case is made out for enhancement of compensation.

9. It was averred in the claim petition that deceased Dharam Pal was working as a tubewell borer with Malkeet Singh. Though Malkeet Singh, Contractor, deposed in support of the fact that Dharam Pal was having monthly earning of ₹ 7,000/-, yet apart from the said deposition, there was no evidence to support the monthly earning of the deceased. The Tribunal assessed the monthly earning of the deceased as ₹ 3,600/-. The minimum wages of a semi-skilled labourer at the time of the accident was ₹ 3,794/-. Therefore, monthly earning of the deceased for calculation of loss of dependency is taken as ₹ 3,800/-. 1/5th deduction made by the Tribunal for self expenses of the deceased is in consonance with decision of the Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*, as he was survived by more than six dependents. Keeping in view age of the deceased, multiplier of 16 should have been applied.

Having due regard to the decision of the Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others, AIR 2017 SC 5157*, 40% future prospects are to be added and a sum of ₹ 70,000/-, i.e. ₹ 15,000/- each for funeral expenses and loss of estate, and a sum of ₹ 40,000/- for loss of consortium, is to be awarded under the conventional heads.

10. In view of the above discussion and the aforesaid decisions, compensation is re-calculated as under :-

Monthly Income	₹ 3,800/-
Add 40% future prospects	₹ 1,520/-
Total	₹ 5,320/-
1/5 th deduction for self expenses	₹ 1,064/-
Dependency	₹ 4,256/-
Applying multiplier of 16 (3990 x 12 x 16)	₹ 8,17,152/-
Funeral expenses	₹ 15,000/-
Loss of estate	₹ 15,000/-
Loss of consortium	₹ 40,000/-
Total	₹ 8,88,152/-

11. The award dated 03.04.2010 passed in Claim Petition No. 82 of 2008 is modified to the extent that the amount of ₹ 6,01,360/- awarded by the Tribunal is enhanced to ₹ 8,88,152/-.

12. 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 realisation of the amount.

13. The appeal is partly allowed in the aforesaid terms.

February 26, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No