IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(404) **FAO-5380-2010 (O&M)**
Decided on: February 26, 2018.

ICICI LOMBARD GENERAL INSURANCE COMPANY LTD.

.... Appellant

Versus

PREMI DEVI AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.S. Dhull, Advocate
for the appellant-ICICI Lombard General Insurance Company Ltd.

Mr. Sandeep Kotla, Advocate
for respondents No.1 and 2.

Mr. Ayuwan Singh, Advocate
for respondent Nos. 4 & 5.

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The present appeal has arisen from award dated 29.05.2010 passed by Motor Accidents Claims Tribunal, Fatehabad (hereinafter referred to as 'the Tribunal').

A claim petition under Section 166 of Motor Vehicle Act, 1988 (for short, 'the Act') was filed by unfortunate parents of Rajesh Kumar who lost their 19 years young son in a motor vehicular accident occurred on 25.02.2009. He was run over by rear tyre of Haryana Roadways Fatehabad Depot bus bearing registration No. HR-62/0443 (for short 'the offending vehicle').

The Tribunal awarded a sum of ₹ 8,15,000/- (eight lacs and fifteen thousand) along with interest @ 7.5% per annum . While passing the award it was considered that the accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was considered as 19 years. It was also taken into consideration that he was final year student of Textile Design Diploma at Government Polytechnic College, Hisar. A sum of ₹ 5000/-only was awarded for funeral expenses.

The Insurance Company has filed this appeal being aggrieved of the quantum of compensation.

I have heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

The contention raised by the learned counsel for the appellant-Insurance Company is that the monthly income of the deceased is assessed by the Tribunal as ₹ 9000/- is on the higher side.

No doubt since the deceased was a student, the claimants were not able to prove his monthly earning. He being a student of Textile Design Diploma at Government Polytechnic College, Hisar itself is an indicator that he had a bright future ahead of him. In such like cases, where the parents loose their young son, it is very difficult to calculate the loss and sorrow suffered in monitory terms. Some guess work has to be there for assessing the income. In ordinary course, reliance would have been placed on the minimum wages prevalent at the time of accident.

In the present case since no future prospectus have been added while awarding compensation, even the multiplier had been applied considering the age of the parents rather than the age of the deceased. The amount awarded under the conventional heads was only ₹ 5,000/- towards funeral expenses and no amount has been awarded for loss of estate. Keeping in view the decision of the Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and others*** 2017(4) RCR(Civil) 1009: 2017 ACJ 2700; 6 RAJ 143; 2017 AIR SC 5157, 40% future prospects are to be added and Supreme Court in ***Sube Singh and Another Vs. Shayam Singh (Dead) and Ors.,*** Supreme Court in Civil Appeal No. 7176 of 2015 decided on 09.02.2018 and ***Shri Nagar Mal and Ors Vs. The Oriental Insurance Company Ltd. And Ors*** in Civil Appeal No.448 of 2018 decided on 19.01.2018 held that multiplier is to be applied, keeping in view the age of the deceased. Even if the monthly income is reduced, enhancement will have to be made for future prospects multiplier has to be increased in view of the age of the deceased and amounts for funeral expenses is to be enhanced to ₹ 15,000/- and ₹ 15,000/- is to be awarded for loss of estate. There would be already any variation in the amount awarded.

As a result the appeal is dismissed.

The award calls for no interference for reducing the quantum of compensation.

(AVNEESH JHINGAN)
JUDGE

February 26, 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No