

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

1. FAO No.7138 of 2010 (O&M)
Date of decision: 02.05.2018

Sheela Devi and another Appellants

Versus

Ramphal and others Respondents

2. FAO No.6161 of 2010 (O&M)

Roshni Devi and another ... Appellants

Versus

Ramphal and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ajit Malik, Advocate
for the appellants.

Mr. Sanjeev Goyal, Advocate
for ICICI Lombard General Insurance Company Ltd.

Mr. Rohit Goswami, Advocate for
Mr. D.P.Gupta, Advocate
for National Insurance Company Ltd.

Avneesh Jhingan, J.

The present two appeals have been filed for enhancement of compensation awarded vide award dated 15.06.2010 passed by Motor Accidents Claims Tribunal, Jhajjar (hereinafter referred to as the 'Tribunal') in MACT Cases No.21 and 22 of 2009.

A motor vehicular accident took place on 04.12.2008 at about

5.30 a.m., Navin Malik, aged 25 years, was driving a motorcycle bearing registration No.HR-13C-3733 and Pardeep Kumar @ Pardeep, aged 24 years, was a pillion rider on the motorcycle. They were going to attend their duty at Maruti Suzuki India Ltd., Manesar Plant, Gurgaon. Near power house on Daboda Khurd-Bupania Road, a rashly and negligently driven tractor bearing registration No.HR-13C-0386 (for short, 'the offending vehicle') dashed into the motorcycle. As a result of the accident, Pardeep Kumar @ Pardeep and Navin Malik suffered injuries. They were taken to General Hospital, Bahadurgarh. Thereafter, they were referred to PGIMS, Rohtak. They succumbed to injuries in PGIMS, Rohtak.

Two claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') were filed by the legal heirs of the deceased.

The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The monthly income of deceased Pardeep Kumar @ Pardeep and Navin Kumar was assessed as Rs.3619/- and Rs.4050/-. Both were bachelors, hence one half deductions for self expenses were made. A sum of Rs.2,97,360/- along with interest @ 6% per annum was awarded to the legal heirs of Pardeep Kumar @ Pardeep. The amount awarded included Rs.5,000/- each for loss of estate, funeral expenses and loss of affection. The amount of Rs.2,82,300/-along with interest @ 6% per annum was awarded to the legal heirs of the deceased Navin Malik.

The present two appeals have been filed for enhancement of compensation. The monthly income assessed by the Tribunal in both the

cases has not been disputed. The issues raised are that; no future prospects have been added; multiplier has been applied considering the age of the parents of the deceased and the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the Insurer of the offending vehicle defended the award and resisted any enhancement.

The contentions raised by learned counsel for the appellants so far as awarding of future prospects and enhancement of compensation under the conventional heads are concerned, same are duly covered by the decision of Supreme Court in **National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157.** The deceased were below 40 years and would fall within the category of self employed or having a fixed salary, hence, 40% future prospects are to be added. The appellants would be entitled to Rs.15,000/- each for funeral expenses and loss of estate and no amount can be awarded for loss of love and affection.

The multiplier applied by the Tribunal taking into consideration the age of the parents of the deceased cannot be sustained. The multiplier is to be applied as per the age of the deceased.

Reliance is placed upon the decisions of Supreme Court in cases of **Shri Nagar Mal Vs. Oriental Insurance Company Ltd., Civil Appeal No. 448 of 2018, decided on 19.01.2018** and **Sube Singh and another Vs. Shyam Singh (Dead) and others, Civil Appeal No. 7176 of 2015 decided on 09.02.2018,** considering the decisions of **Smt. Sarla Verma and Pranay Sethi's cases (supra)** and it has been held that

multiplier is to be applied, keeping in view the age of the deceased.

The compensation is recalculated as under :-

1. Pardeep Kumar @ Pardeep

Monthly income	Rs.3620/-
40% future prospects	Rs.1448/-
Total income	Rs.5,068/-
½ deduction for self expenses	Rs.2,534/-
Dependency	Rs.2,534/-
Applying multiplier of 18	Rs.547344/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.5,77,344/-

2. Navin Malik

Monthly income	Rs.4050/-
40% future prospects	Rs.1620/-
Total income	Rs.5,670/-
½ deduction for self expenses	Rs.2,835/-
Dependency	Rs.2,835 /-
Applying multiplier of 18	Rs.6,12,6304/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.6,42,360/-

The award dated 15.06.2010 is modified to the extent that the amount awarded by the Tribunal of Rs.2,97,360/-to the legal heirs of Pardeep Kumar @ Pardeep is enhanced to Rs.5,77,344/-and the amount awarded by the Tribunal of Rs.2,82,300/-to the legal heirs of Navin Malik is enhanced to Rs.6,42,360/-.

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 appeals are partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

02.05.2018

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No