

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 1269 of 2012 (O&M)

Date of Decision:01.02.2018

Aarshpreet Kaur and another

.....Appellants

Versus

Rashid Mohammad and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ankush Singla, Advocate
for the appellant.

Mr. Arun Sharma, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The present appeal is against the award dated 17.03.2011 passed by the Motor Accidents Claims Tribunal, Faridkot (for short 'the Tribunal').

In a motor vehicular accident Arun Singh aged 22 years lost his life on 24.07.2008, as motor cycle bearing registration No.PB-03-H-9759 was hit by a Jeep bearing registration No. PB-06-F-1786 (wrongly mentioned in the award as PB-10-F-1786) (for short the offending vehicle).

As a result of the accident, Arun Singh lost his life on the spot. FIR No.213 dated 24.07.2008 was registered at Police Station Baghapurana. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by legal heirs of deceased. The Tribunal awarded a sum of Rs.4,52,000/- alongwith interest at the rate of 8% per annum.

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

The parties have not disputed the facts regarding involvement of the offending vehicle, rash and negligent driving of the vehicle, age of the deceased, monthly earning of the deceased and 1/3rd deduction made for

self expenses.

The grievance is that multiplier has not been rightly applied. No future prospects had been awarded on the amount awarded and the conventional heads awarded are on the lower side.

The deceased was 22 years of age and as per the decision of Hon'ble the Apex Court in **Sarla Verma and others Vs. Delhi Transporation Corporation and another (2009)6 SCC 121**, multiplier of 18 should be applied.

Hon'ble the Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017**, has held that 40% future prospects are to be awarded where the deceased is 40 years of age and Rs.70,000/- is to be awarded under the conventional heads.

As per the decision of Hon'ble the Apex Court in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)**, future prospects are to be awarded in cases where the earnings, are assessed relying upon the minimum wages.

The compensation is re-calculated as under:

Monthly earning	Rs.4500/-
1/3 rd deduction for self expenses	Rs.1500/- (4500-1500=3000)
40% future prospects (3000 x 40%)	Rs.1200/-
(3000+1200=4200)	
multiplier of 18 (4200x18x12)	Rs.9,07,200/-
Conventional heads	Rs. 70,000/-
Total	Rs.9,77,200/-

The award dated 17.03.2011 is modified to the extent that the amount awarded of Rs. 4,52,000/- is enhanced to Rs.9,77,200/-.

The claimants shall be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the above said terms.

01.02.2018

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No