

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6964 of 2011(O&M)

Date of Decision: 19.02.2018

Kaushalya Kaur & anr.

... Appellants

Versus

Davinder Kumar & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Shakti Bhardwaj, Advocate,
for the appellants.

Mr. Lalit Garg, Advocate,
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J.(Oral)

The present appeal has arisen from award dated 15.04.2010 passed by the Motor Accident Claim Tribunal, Ferozepur (for short 'the Tribunal').

The record of this case was burnt and has been reconstructed from the salvaged record and copies supplied by counsel, subject to all just exceptions.

An accident took place on 26.12.2008, which proved fatal for Gurpreet Singh, aged 26 years. He along with his cousin brother was going on a motor cycle. When they crossed the bus stand of Village Naurang Ke Leli Wala, a maruti Car bearing registration No.PB-43-A-0552 (for short 'the offending vehicle') struck against their motor cycle. Gurpreet Singh died on the spot. FIR No.330, dated 26.12.2008 was registered at Police Station Sadar Ferozepur.

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

The Tribunal while deciding the claim petition considered the age of the deceased as 26 years. His monthly income was assessed at Rs.5,000/-. It was held that the accident was result of rash and negligent driving of the offending vehicle. The driver, owner and the insurer of the offending vehicle were held jointly and severally liable to pay compensation. An amount of Rs.5,14,000/- along with interest @ 7% per annum was awarded.

The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellants assailed the award arguing that (i) no future prospects have been added, (ii) the multiplier of 12 has wrongly been applied and (iii) the amount awarded under the conventional heads is on the lower side.

Learned counsel for the insurer defended the award and argued that the multiplier of 12 has rightly been applied as the deceased was bachelor and considering the age of the parents(claimants), the multiplier has been applied.

The contentions raised by learned counsel for the appellants deserve acceptance. The reliance is placed upon decisions of the Supreme Court in cases of Shri Nagar Mal vs. Oriental Insurance Company Limited, (Civil Appeal No.448 of 2018), decided on 19.01.2018 and Sube Singh Vs. Shyam Singh (Civil Appeal No.7176 of 2015), decided on 09.02.2018. Supreme Court relying upon its earlier decisions in cases of National Insurance Company Limited Versus Pranay Sethi and others, 2017 AIR (SC) 5157, and Smt. Sarla Verma Vs. Delhi Transport Corporation, 2009(6) SCC 121, has held that multiplier having regard to the age of the deceased should

be applied.

Giving due regard to the decision of the Supreme Court in *Pranay Sethi's case (supra)*, and Hem Raj Versus Oriental Insurance Company Ltd., (Civil Appeal No. 19602 of 2017), decided on 22.11.2017, 40% future prospects are to be added. Further Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate, are to be awarded.

For the reasons mentioned above, the compensation is recalculated as under :-

Monthly income	Rs.5,000/-
Add 40% future prospects	Rs.2,000/-
Total income (5000+2000)	Rs.7,000/-
1/2 deduction for self expenses	Rs.35,00/-
Applying multiplier of 17 (3500x12x17)	Rs.7,14,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.7,44,000/-

The award dated 15.04.2010 is modified to the extent that amount awarded of Rs.5,14,000/- is enhanced to Rs.7,44,000/-.

The appellants would be entitled to enhanced compensation along with 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.

19.02.2018
monika

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>