

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3451 of 2012 (O&M)

Date of Decision:01.02.2018

Smt. Nirmala and others

.....Appellants

Versus

Sarjeet and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.K. Yadav, Advocate
for the appellants.

None for respondent No.3 inspite of service.

AVNEESH JHINGAN, J.(oral)

The appellants are in appeal for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

An amount of Rs.4,03,500/- alongwith interest at the rate of 6% per annum was awarded by Motor Accidents Claims Tribunal, Narnaul (for short 'the Tribunal'), vide its award dated 04.11.2009.

No one appeared for respondent No.3 inspite of two pass over.

The bare facts necessary for deciding the appeal are that on 29.07.2007 Ram Niwas, aged 40 years, was hit by a rashly and negligently driven Jeep bearing registration No.RJ-18-C-1583. As a result of the injuries suffered in the accident, Ram Niwas succumbed to his injuries in SMS Hospital Jaipur. FIR was registered at Police Station City Narnaul.

The claimants were not able to substantiate the monthly earning

of the deceased and the Tribunal on the basis of estimate assessed his

monthly earning as Rs.2500/-. The safest yardstick in cases where the earning of the deceased is not proved, is to rely upon the minimum wages prevalent in the State at the time of accident. In the State of Haryana in July 2007, the minimum wages for an unskilled labourer was Rs.3500/-. 40% future prospects are to be awarded in case where the deceased was below 40 years of age. Future prospects are to be awarded even in cases where the income is assessed relying upon the minimum wages. Rs.70,000/- is to be awarded under conventional heads i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

Reliance is placed on decisions of 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*, and *Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)*, the compensation is recalculated as under:

Monthly earning	Rs.3500 x 12 =42000/-
¼ deduction for self expenses	Rs.10,500/- Rs.31,500/-
40% future prospects (31500+12600)	Rs.12,600/- Rs.44,100/-
Applyiung multiplier of 15 (44100 x 15)	Rs.6,61,500/-
Conventional heads	Rs. 70,000/-
Medical expenses already awarded by Tribunal	Rs.46,000/-
Total	Rs. 7,77,500/-

The award dated 04.11.2009 is modified to the extent that the amount awarded of Rs. 4,03,500/- is enhanced to Rs.7,77,500/-.

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
Whether Reportable:

Yes/No
Yes/No