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

****

**FAO No.3748 of 2012
Date of Decision: 07.12.2018**

Poonam Devi and others

Appellants

Versus

Leela Ram and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Nonish Kumar, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for the Insurance Company.

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AVNEESH JHINGAN, J (Oral):

The award dated 07.04.2012 passed by the Motor Accident Claims Tribunal, Karnal [for brevity 'the Tribunal'] has been assailed by the legal heirs of Rajinder Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The widow, two minor children and mother of the deceased are the appellants. The driver of truck bearing registration No. HR-47A-5615 [hereinafter referred to as 'offending vehicle'], owner and insurer i.e. Reliance General Insurance Co. Ltd. of the offending vehicle have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the appeal are that on 27.09.2009, Rajinder Singh alongwith Sonu was returning to Kutail from Hathlana on a motorcycle bearing registration No. HR-05U-4333. When they reached near Railway Fly Over at Kaithal-Karnal road, their motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Rajinder Singh fell down and was ran over by the offending vehicle. He died at the spot. FIR No. 656, dated 27.09.2009 was registered at Police Station City, Karnal.

A claim petition under Section 166 of the Act was filed. The Tribunal, after considering the facts and appreciating the evidence adduced, held that accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹5,73,600/- alongwith interest @ 6% per annum. The said amount included ₹12,000/- awarded under the conventional heads.

In the claim petition, the claimants pleaded that deceased was 23 years old and was working as a Driver, his monthly earning was ₹8,000/- per month. He was getting a salary of ₹6,000/- per month and was receiving diet money of ₹2,000/- per month. The claimants failed to substantiate the monthly earning of the deceased by adducing any cogent evidence. The Tribunal assessed monthly income of the deceased as ₹4,000/- per month, made 1/3rd deduction for self-expenses and multiplier of '18' was applied.

Heard learned counsel for the parties, perused the paper book and relevant documents produced.

Learned counsel for the appellants contends that no future prospects have been awarded and amounts awarded under the conventional heads are on the lower side. Further grievance is that the Tribunal made 1/3rd deduction for self-expenses instead of 1/4th.

Learned counsel for the insurer defends the award and resists any further enhancement.

The contentions raised by learned counsel for the appellants deserve acceptance. There is no dispute between the parties with regard to monthly earning of the deceased and multiplier applied of '18'.

Having due regard to the decisions of the Supreme Court in cases of ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, appellants are entitled to 40% future prospects, as the deceased was 23 years old at the time of accident. The appellants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- is awarded to the widow for loss of consortium.

The deceased was survived by four dependents, thus, in consonance with the decision of the Supreme Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** 1/4th deduction is being made for self expenses.

In view of above discussion, the compensation is re-calculated as follows:-

Particulars	***Amount (in ₹)***
Monthly income of the deceased as assessed	4,000/-
40% Future Prospects	1,600/-
Sub Total	5,600/-
1/4th deduction for self expenses	1,400/-
Monthly Dependancy	4,200/-
Annual Dependancy	50,400/-
Applying multiplier of '18'	**9,07,200/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**9,77,200/-**

The award dated 07.04.2012 is modified to the extent that amount of ₹5,73,600/- awarded by the Tribunal is enhanced to ₹9,77,200/-. The amount awarded for loss of consortium to the widow shall be disbursed to the widow and the balance amount shall be disbursed to the claimants in the same proportion as held by the Tribunal.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

December 07th, 2018
pankaj baweja

1. Whether speaking/ reasoned : **Yes**/ No
2. Whether reportable : **Yes**/ No