

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

FAO No. 3816 of 2012

DATE OF DECISION : 19.02.2018

Smt. Neelam Verma and another

.... APPELLANTS

Versus

Jagdev Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ishan Cooner, Advocate,
for the appellants.

Mr. Lalit Garg, Advocate,
for respondent No.3.

* * *

AVNEESH JHINGAN, J. (Oral)

This appeal has arisen from the award dated 15.03.2012 passed by the Motor Accident Claims Tribunal, Amritsar (for short, 'the Tribunal').

2. An accident took place on the intervening night of 28/29.11.2010, it proved fatal for Reagan Verma. He along with his colleague was travelling in a car bearing registration No. PB-02-AB-3739. When they reached near village Rash Palma, District Gurdaspur, a truck bearing registration No. PB-03T-2958 (for short, 'the offending vehicle') being driven rashly and negligently by respondent No.2, dashed into the car. As a result of the accident, both the occupants of the car died at the spot.

3. A claim petition under Section 166 of the Motor Vehicles Act,

1988 (for short, 'the Act') was filed by the unfortunate parents of Reagan Verma.

4. The Tribunal considered age of the deceased as 22 years and held that the accident occurred due to rash and negligent driving of the offending vehicle. A sum of ₹ 3,34,000/- was awarded. However, no interest was awarded. The interest was awarded only if payment was not made within two months. The amount awarded included a sum of ₹ 10,000/- towards funeral expenses.

5. The present appeal has been filed for enhancement of compensation.

6. I have heard learned counsel for the parties and perused the paper book as well as the record.

7. Learned counsel for the appellants assailed the award on the ground that the income assessed of the deceased is on the lower side, as the deceased was a student of MBA in Lovely Professional University. He further argued that no future prospects have been added; the amount awarded under the conventional heads is on the lower side; and the Tribunal erred in not awarding interest.

8. Learned counsel for the insurer defended the award and argued that nothing has been produced on record to prove that the deceased was a student of MBA. He argued that just and equitable amount has been awarded. Interest has been awarded if amount is not paid within two months.

9. The contentions raised by learned counsel for the appellants

deserve acceptance. Even though it was not proved that the deceased was a student of MBA but averment made in the claim petition was not rebutted or doubted. He was a young boy of 22 years of age having a bright future ahead of him. In such circumstances, while assessing his income, the minimum wages of a skilled labourer prevalent in the State at the time of the accident should have been considered. The minimum wages of a skilled labourer prevalent in the State of Punjab at the time of the accident was ₹ 5,000/-. Thus, the compensation for loss of dependency is to be calculated on the said amount.

10. Having due regard to the decisions of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others, 2017** **(6) Recent Apex Judgments 143** and **Hem Raj Vs. Oriental Insurance Company Ltd.**, (Civil Appeal No. 19603 of 2017, decided on 22.11.2017), 40% future prospects are to be added and the appellants would be entitled to a sum of ₹ 30,000/- under the conventional heads, i.e. ₹ 15,000/- for funeral expenses and ₹ 15,000/- for loss of estate.

The compensation is re-calculated as under:-

Monthly income	₹ 5,000/-	
40% future prospects	₹ 2,000/-	
Total	₹ 7,000/-	
1/2 deduction for self expenses (as the deceased was bachelor)	₹ 3,500/-	
Loss of dependency by applying multiplier of 18 (3500 x 12 x 18)		₹ 7,56,000/-
Funeral expenses		₹ 15,000/-
Loss of estate		₹ 15,000/-
Total		₹ 7,86,000/-

11. The award dated 15.03.2012 is modified to the extent that the amount of ₹ 3,34,000/-awarded by the Tribunal is enhanced to ₹ 7,86,000/-.

12. The contention raised by learned counsel for the appellants with regard to awarding of interest deserves acceptance. Section 171 of the Act provides for the awarding of statutory interest. A perusal of the impugned award will show that the Tribunal has not dealt with the awarding of interest.

13. Supreme Court in case **Dharampal and others vs. U.P. State Road Transport Corpn. 2008(12) SCC 208** has held as under :-

“8. As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the Act is allowed by the Claims Tribunal, the Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.”

14. In **National Insurance Company Ltd. vs. Keshav Bahadur, (2004) 2 SCC 370**, the Supreme Court has held that the provisions of the Act require payment of interest in addition to compensation already determined. Even though the expression 'may' is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.

15. Interest is compensation for forbearance or detention of money,

which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest.

16. In the above referred decision, the Supreme Court has held that the Tribunal while awarding compensation should deal with the awarding of interest separately.

17. In the facts and circumstances of the case, interest @ 6% per annum is awarded to the claimants on original amount, if not already paid because of the delay in payment, as well as on the enhanced amount from the date of filing the claim petition till the realisation of the amount.

18. The appeal is disposed of in the aforesaid terms.

February 19, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes