

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A. O. No. 10025 of 2014 (O&M)

Date of Decision: 14.05.2018

Smt. Sangeeta and others

.....Appellants

Versus

Joginder Singh Kataria and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Akash Vashisth, Advocate for
Mr. Sanjay Vashisth, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal has been filed against the award dated 02.07.2014 passed by the Motor Accident Claims Tribunal, Palwal (for short 'the Tribunal').

On 21.08.2013 Lakhan Singh, aged 30 years, was travelling as a pillion rider on motor cycle bearing registration No.HR-30-L-0423. The motor cycle was being driven by Devender. When they reached near T-Point on G.T. Road at village Bamnikhera, the motor cycle was struck by a rashly and negligently driven car bearing registration No. HR-72-8337 (for short 'the offending vehicle'). As a result of the impact, Lakhan Singh, sustained grievous injuries including head injury. He was taken to General Hospital, Palwal and from there he was referred to AIIMS Delhi but was shifted to Diamond Hospital, Palwal. He succumbed to injuries. FIR No. 363 dated 21.08.2013 was registered at Police Station Sadar, Palwal.

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

1988 (for short 'the Act') was filed by the widow, two minor children and mother of the deceased. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved to be 30 years. His monthly income was assessed as Rs.9000/- and 1/3rd deduction for self expenses were made. The Tribunal awarded a sum of Rs. 11,87,000/- along with interest at the rate of 9% per annum.

The present appeal has been filed for enhancement of compensation.

I have heard learned counsel for the parties and perused the paper book and relevant documents produced by them.

Learned counsel for the appellants contends that the Tribunal erred in not adding future prospects. He further contends that multiplier of 16 has wrongly been applied. His further grievance is that amount of Rs.35,000/- awarded under conventional heads is on the lower side. No other issue was raised.

Learned counsel for the Insurer defended the award and resisted any further enhancement.

The contentions raised by learned counsel for the appellants deserve acceptance.

Having due regard to the decisions of Supreme Court in **National Insurance Company Limited Versus Pranay Sethi and others** 2017 AIR (SC) 5157 and in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)**, since the deceased was below 40 years and falls under the category of self employed, 40% future prospects are to be added and appellants are entitled to Rs.70,000/- 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.

The Tribunal erred in applying the multiplier of 16 and as per decision of Supreme Court in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(6)SCC 121, since the deceased was 30 years of age, multiplier of 17 has to be applied.

The compensation is re-calculated as under:

Monthly earning	Rs.9000/-
40% future prospects	Rs.3600/- Rs.12,600/-
1/3 rd deduction for self expenses	Rs.4200/- (12,600 – 4200=8400)
Multiplier of 17	8400x17x12 Rs.17,13,600/-
Conventional heads	Rs.70,000/-
Total:	Rs.17,83,600/-

The award dated 02.07.2014 is modified to the extent that the amount awarded of Rs.11,87,000/- is enhanced to Rs.17,83,600/-.

The claimants would 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 aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

14.05.2018
reema

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No