

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

FAO No. 2719 of 2013

DATE OF DECISION : 01.05.2018

Smt. Roshni and others

....APPELLANTS

Versus

Jitender @ Jeete and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Kulvir Narwal, Advocate,
for the appellants.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3.

* * *

AVNEESH JHINGAN, J. (Oral)

The quantum of compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal') vide award dated 08.10.2012 for death of Sandeep is under challenge in this appeal by the claimants.

2. The issues raised in the present appeal are that : (i) no future prospects have been added; (ii) the multiplier has been applied considering the age of the mother of the deceased and not that of the deceased; (iii) the amount awarded for funeral expenses is on lower side; (iv) no amount has been awarded for loss of estate; and (v) some of the medical bills, i.e. Ex.P24 to Ex.P39, totalling ₹ 25,465/-, have not been reimbursed by the Tribunal.

3. On 25.05.2011, Sandeep aged 28 years, a bachelor, was returning to his village from Bahadurgarh. He was travelling in a three wheeler bearing registration No. HR-63A-9818 (for short, 'the offending vehicle'). The said three wheeler was being driven in a rash and negligent manner, near Dhola Kuan, the offending vehicle turned turtle, passengers sustained injuries. Sandeep suffered grievous injuries and was taken to J.J. Hospital, Bahadurgarh. His condition deteriorated, then he was shifted to Jaipur Golden Hospital, Delhi, surgery was performed but he succumbed to injuries on 27.05.2011.

4. In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the Tribunal awarded a sum of ₹ 3,30,000/- along with interest at the rate of 6% per annum.

5. The appellants are the parents and sister of the deceased. The respondents are the driver, owner and insurer of the offending vehicle.

6. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 28 years. His monthly income was assessed as ₹ 5,200/-.

7. The contentions raised by learned counsel for the appellants are that no future prospects have been added; multiplier of 7 has wrongly been applied taking into account age of the mother of the deceased; the amount awarded for funeral expenses is on lower side; no amount has been awarded for loss of estate; and the medical bills Ex.P24 to Ex.P39 were not reimbursed by the Tribunal on the ground that Pharmacist or the shopkeeper was not examined.

8. The contentions raised deserve acceptance. The deceased was 28 years of age. As per the decision of the Supreme Court in *National Insurance Company Limited Versus Pranay Sethi and others*, AIR 2017 (SC) 5157 and *Hem Raj Versus Oriental Insurance Company Ltd.*, 2017 DNJ 1102, 40% future prospects are to be added. The deceased was a bachelor. One-half deduction for self expenses has been rightly made by the Tribunal. The multiplier is to be applied considering the age of the deceased and not that of his parents. Reliance in this regard is placed upon the decisions of the Supreme Court in *Shri Nagar Mal Vs. Oriental Insurance Company Ltd.* (Civil Appeal No. 448 of 2018, decided on 19.01.2018) and *Sube Singh and another Vs. Shyam Singh (Dead) and others* (Civil Appeal No. 7176 of 2015 decided on 09.02.2018). The Supreme Court relying upon its earlier decisions in *Pranay Sethi's case* (supra) and *Smt. Sarla Verma and others Versus Delhi Transport Corporation and another* 2009 (6) SCC 121 has held that multiplier having regard to the age of the deceased should be applied. Keeping in view the age of the deceased in this case, multiplier of 17 is to be applied. As per *Pranay Sethi's case* (supra), the appellants are entitled to ₹ 15,000/- each for funeral expenses and loss of estate.

9. Deceased remained hospitalised for 2 days after the accident, he was operated upon at Jaipur Golden Hospital, Delhi. The medical bills Ex.P1 to Ex.P14 and Ex.P24 to Ex.P39 were exhibited before the Tribunal. The medical bills Ex.P1 to Ex.P14 amounting to ₹ 1,06,600/- were reimbursed by the Tribunal but reimbursement of the bills Ex.P24 to

Ex.P39 was declined on the ground that the same were not proved by summoning the requisite record of the concerned shop. From a perusal of the record, it is evident that the medical bills Ex.P24 to Ex.P39 have been issued by Pharmacy which was situated in Jaipur Golden Hospital, Delhi, itself. In such circumstances, it would not be appropriate to disallow the said bills on a technical ground, especially when the admission of Sandeep to the said hospital is not disputed. The fact that he was operated upon and he died in the said hospital is also not disputed. In such circumstances, the medical bills worth ₹ 25,465/- are also to be reimbursed to the claimants.

10. The claimants are also held entitled for a sum of ₹ 5,000/- as counsel fee being legal expenses before the Tribunal and in the appeal before this Court.

11. The compensation is re-calculated as under :-

Monthly Income	₹ 5,200/-
Add 40% future prospects	₹ 2,080/-
Total	₹ 7,280/-
1/ 2 deduction for self expenses	₹ 3,640/-
Dependency	₹ 3,640/-
Applying multiplier of 18 (3640 x 12 x 17)	₹ 7,42,560/-
Funeral expenses	₹ 15,000/-
Loss of estate	₹ 15,000/-
Medical expenses	₹ 1,32,065/-
Counsel fee	₹ 5,000/-
Total	₹ 9,09,625/-

12. The award dated 08.10.2012 is modified to the extent that the amount of ₹ 3,30,000/- awarded by the Tribunal is enhanced to ₹ 9,09,625/-.

13. The appellants would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.
14. The appeal is partly allowed in the aforesaid terms.

May 01, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

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