

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1710 of 2014

Date of decision: 06.04.2018

Suman and Another

...Appellants

Versus

Salam Khan and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashok Kaushik, Advocate
for the appellants.

Mr. D.K. Prajapati, Advocate
for Mr. R.S. Madan, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J. (ORAL)

The appeal arises from award dated 17.09.2013 passed by Motor Accident Claims Tribunal, Palwal (for short, 'the Tribunal'). The appeal is aggrieved of awarding a sum of ₹ 2,50,000/- along with interest at the rate of 9% per annum as a compensation for death of Hoshiar aged 19 years in motor vehicular accident.

On 07.09.2011, Lalit was driving car bearing registration No. HR-30J-6720. He was going to drop his friend Hoshiar to village Deeghot. Near Hotel Hide, at Village Asawata a rashly and negligently driven truck bearing registration No. NL-01-G-3704 hit the car from behind. As a result of the impact the car turned turtle, Lalit and Hoshiar lost their lives. FIR No. 370 dated 08.09.2011 was registered at Police Station Camp Palwal.

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

1988 (for short, 'the Act') was filed by the LRs of the deceased. The Tribunal after considering the facts that the deceased was 19 years of age and student of 2nd year B.Tech in Delhi Institute of Technology, Management and Research Centre, Faridabad, assessed his annual income as ₹15,000/-.

The grievance raised in the appeal is that the deceased was a student of B.Tech and the Tribunal has not even taken the monthly earning of an unskilled labourer in spite of the fact that he was having a bright future ahead of. The multiplier was not in consonance with the decision of the Supreme Court in **Sarla Verma and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 121**. The amount of ₹ 10,000/- awarded under the conventional heads is on the lower side.

There cannot be any second opinion that the parents who have lost their young son of 19 years cannot be compensated in monetary terms, yet it is duty of the Courts to award a just and equitable compensation. A student of B.Tech cannot be treated as an unskilled labourer by any stretch of imagination. A clue can be taken from minimum wages prevailing at the time of accident. In the State of Haryana, during the relevant period for highly skilled labourer minimum wages were ₹ 5300/- per month. Considering the age of the deceased, his monthly earning is assessed as ₹ 5500/-. Having due regard to the decision of the Supreme Court in **Sarla Verma's** case (supra), **National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 (4) RCR (Civil) 1009** and **Hem Raj Vs. Oriental Insurance Company Ltd., 2017 DNJ 1102**, ½ deduction is made for self expenses, multiplier of 18 is applied and 40% future prospects are added. ₹ 15,000/- each is awarded for funeral expenses and loss of estate.

The compensation is calculated as below:-

Annual earning	₹66,000/-
40% Future Prospects	₹ 26,400/-
Total	₹ 92,400/-
½ deduction for self expenses	₹ 46,200/-
Dependancy	₹ 46,200/-
Applying multiplier of 18	₹ 8,31,600/-
Funeral expenses	₹ 15,000/-
Loss of estate	₹ 15,000/-
Total	₹ 8,61,600/-

The claimants would be entitled to the enhanced compensation along with interest at the rate of 6 % per annum from the date of the filing of the claim petition till realisation of the amount.

Appeal is disposed of in the aforesaid terms.

April 06, 2018
Poonam (II)

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether reportable:</i>	<i>Yes/No</i>