

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

FAO No.362 of 2014 (O&M)

Date of decision: 17.05.2018

Kartar Kaur and another

.... Appellants

Versus

Avtar Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Pankaj Katia, Advocate
for the appellants.

Mr.Sukhdarshan Singh, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 23.10.2013 passed by Motor Accidents Claims Tribunal, Bathinda (hereinafter referred to as 'the Tribunal').

The parents of Satnam Singh @ Aadi are in appeal for enhancement of compensation awarded in a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') on account of death of their son in a motor vehicular accident.

On 30.05.2012, Satnam Singh @ Aadi along with his co-villager was going on a motorcycle bearing registration No.PB-03Q-6909. At about 8.00 p.m., near petrol pump of Kot Fatta, oil tanker bearing registration No.PB-10AL-9572 (for short, 'the offending vehicle') came from the opposite direction at a very high speed and hit the motorcycle. As a result of the impact, Satnam Singh @ Aadi suffered injuries. He was taken to Civil Hospital,

Bathinda. He lost his life on reaching the hospital. FIR No.33 dated 31.05.2012 was registered at Police Station, Kot Fatta.

In a claim petition filed, the Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of Rs.1,45,000/- along with interest @ 6% per annum.

Learned counsel for the appellants argued that the deceased was 26 years of age and was an agriculturist. He relies upon the statement of CW3-Jagsir Singh. He further argued that it was proved before the Tribunal that the deceased was taking 19 kanals of land on lease for cultivation and was also cultivating 9 acres of land owned by his father. Hence, the Tribunal erred in assessing the monthly income of the deceased as Rs.4500/-. The grievance is that no future prospects have been added and the amounts awarded under the conventional heads are on the lower side. He further argued that the Tribunal erred in applying the multiplier considering the age of the parents of the deceased.

Learned counsel for the respondents argued that the claimants failed to prove the monthly income of the deceased, the Tribunal rightly relied upon the minimum wages prevalent at the time of accident for assessing the compensation.

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

The claimants examined the owner of the land from whom 19 kanals of land was taken on lease by the deceased. The receipt was also produced regarding payment of lease money. Albeit, no evidence was adduced showing the earning of the deceased, even no J-Forms were produced to show

that any agricultural produce was sold in the market. In such circumstances, it would not be appropriate to assess the monthly earning of the deceased as that of an unskilled labourer. In the facts of the case, the monthly earning of the deceased is assessed as Rs.6,000/-.

Having due regard to the decision of the Supreme Court in **National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157**, the deceased was 26 years of age, 40% future prospects are to be added. The appellants are entitled to Rs.15,000/-each for funeral expenses and loss of estate.

The deceased was unmarried, ½ deduction for self expenses is to be made as per the decision of Supreme Court in case of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(6) SCC 121**.

The Tribunal erred in applying the multiplier considering the age of the parents of the deceased. The multiplier is to be applied considering the age of the deceased.

Reliance in this regard is placed on decision of Supreme Court in cases of **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**, considering the decisions of **Smt. Sarla Verma and Pranay Sethi's cases (supra)** wherein it has been held that multiplier has to be applied, keeping in view the age of the deceased.

The ration card was exhibited before the Tribunal. As per the ration card, the deceased was aged 26 years at the time of the accident, the multiplier of 17 is to be applied.

The compensation is recalculated as under :-

Monthly income	Rs.6,000/-
40% future prospects	Rs.2,400/-
Total income	Rs.8,400/-
½ deduction for self expenses	Rs.4,200/-
Dependency	Rs. 4,200 /-
Applying multiplier of 17	Rs.8,56,800/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.8,86,800/-

The award dated 23.10.2013 is modified to the extent that the amount awarded by the Tribunal of Rs.1,45,000/- is enhanced to Rs.8,86,800/-.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

17.05.2018

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1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : Yes