IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1432 of 2016

DATE OF DECISION : 17.05.2018

Smt. Krishna Rani and others

....APPELLANTS

Versus

Mohinder Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Naveen Sharma, Advocate, for
Mr. Kamal Narula, Advocate,
for the appellants.

Mr. Gopal Mittal, Advocate,
for respondent No.3.

* * *

AVNEESH JHINGAN, J. (Oral)

Aggrieved of the quantum of compensation awarded by the Motor Accident Claims Tribunal, Fazilka (for short, `the Tribunal') vide award dated 03.09.2015, the claimants have filed this appeal.

2. The brief facts of the case are that on 15.08.2012, Gurdev Singh along with his daughter Nirmal Kaur was going on a motor cycle bearing registration No. PB-22F-8680. On link road near Behak Hasta Uttar, the motor cycle was hit by the rashly and negligently offending vehicle bearing registration No. RJ-19UA-3708. As a result of the accident, Nirmal Kaur suffered multiple injuries. She was taken to Civil Hospital, Fazilka and

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was referred to GGS Medical College, Faridkot, where she died later on. FIR No. 141 dated 15.08.2012 was registered.

3. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, `the Act') was filed by the legal heirs of the deceased.

4. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The monthly income of the deceased was assessed as ₹ 10,000/-, as she was a student of BA Ist year of Information Technology and was doing tuition work. Applying multiplier of 18 and making deduction of 1/3rd for self expenses, the Tribunal awarded a sum of ₹ 1,57,000/- along with interest at the rate of 6% per annum. The amount awarded included ₹ 20,000/- for loss of love and affection, ₹ 25,000/- for funeral expenses and ₹ 5,000/- for transportation charges.

5. Learned counsel for the appellants argued that no future prospects have been added and no amount has been awarded for loss of estate.

6. Learned counsel for the insurer contended that 1/3rd deduction has been wrongly made, as the deceased was bachelor, and it was further argued that no amount could be awarded for loss of love and affection.

7. Since there is no dispute with regard to the income of the deceased as assessed by the Tribunal, having due regard to decisions 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 appellants would be entitled to ₹ 15,000/- each for funeral expenses and loss of estate.

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8. From a perusal of the award, it is evident that there is calculation error. While applying the multiplier, the assessed monthly income was not multiplied by 12 to arrive at the annual income. Since the amount to be awarded is being re-visited, the said error is taken care of. The compensation is being re-calculated after making ½ deduction for self expenses, in consonance with decision of the Supreme Court in ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (6) SCC 121, as the deceased was bachelor.

9. For the reasons mentioned above, the compensation is re-calculated as under :-

Monthly Income	₹ 10,000/-
Add 40% future prospects	₹ 4,000/-
Total	₹ 14,000/-
½ deduction for self expenses	₹ 7,000/-
Dependency	₹ 7,000/-
Applying multiplier of 18	
(7000 x 12 x 18)	₹ 15,12,000/-
Funeral expenses	₹ 15,000/-
Loss of estate	₹ 15,000/-
Total	₹ 15,42,000/-

10. The award dated 03.09.2015 is modified to the extent that the amount of ₹ 1,57,000/- awarded by the Tribunal is enhanced to ₹ 15,42,000/-.

11. It would be appropriate to mention at this stage that FAO No. 2868 of 2016 with regard to death of Gurdev Singh in the same accident has also been decided today. In the said appeal, the insurer of the offending

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vehicle has already deposited a sum of ₹ 15,00,000/-, but the claimants have been found entitled to compensation to the extent of ₹ 8,50,000/-. Since there is an excess payment by the Insurance Company in the said appeal and the claimants in both the appeals are common, therefore, the claimants in the present appeal would be entitled to the enhanced amount of compensation, after deducting the excess amount already received by them in the other appeal. The claimants would be entitled to interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

12. The appeal is partly allowed in the aforesaid terms.

May 17, 2018 **(AVNEESH JHINGAN)**
ndj **JUDGE**

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

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