

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

FAO No.3146 of 2015 (O&M)
Date of decision: 23.03.2018

Inderwati

.... Appellant

Versus

Raghubir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Vikram Bali, Advocate
for the appellant.

Mr. R.K.Bashamboo, Advocate
for the Insurance Company.

Avneesh Jhingan, J.

The present appeal arises from the award dated 23.02.2012 passed by Motor Accidents Claims Tribunal, Panchkula (hereinafter referred to as the 'Tribunal').

An accident took place on 18.04.2009. Dhanpat was driving a three wheeler bearing registration No.PB-12H-4466. On Zirakpur Patiala Highway near Gurudwara, at around 9.00 p.m., a rashly and negligently driven truck bearing registration No.HR-37A-5339 dashed into three wheeler. As a result of the accident, Dhanpat lost his life. FIR was registered.

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

The Tribunal considered the age of the deceased as 35 years. His income was assessed as Rs.3500/- per month. Deduction of 1/4th towards personal expenses were made and a multiplier of 16 was applied. The Tribunal

also awarded Rs.10,000/-each for loss of estate, loss of funeral expenses and loss of consortium.

The Tribunal awarded a total sum of Rs.5,34,000/- along with interest @ 6% per annum.

The present appeal has been filed for enhancement of compensation.

The parties have not disputed the deduction made, multiplier applied and the age of the deceased.

The contention made is that the amounts awarded under the conventional heads are on the lower side. No future prospects have been awarded and the income assessed as Rs.3500/- is on the lower side.

The claimants were not able to prove the earning of the deceased before the Tribunal. It was claimed that he was plying a three wheeler. The Tribunal relying upon the minimum wages prevalent at the time of accident, assessed the income of the deceased as of an unskilled labourer. There is no denying of the fact that he was driving a three wheeler at the time of the accident which itself will be a proof that he was plying a three wheeler. The deceased is survived by a widow, three minor daughters and one minor son. Keeping in view the facts and circumstances of the case, it is deemed appropriate that the income of the deceased is assessed as of a semi skilled labourer. The income is taken as Rs.4,000/- per month.

Giving due regard to the decision of Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157**, 40% future prospects are to be added and amount of Rs.70,000/- is to be

awarded for conventional heads.

The compensation is recalculated as under :-

Annual income	Rs.48,000/-
Add 40% future prospects	Rs.19,200/-
Total income	Rs.67,200/-
1/4 th deduction for self expenses	Rs.16,800/-
Dependency	Rs.50,400/-
Applying multiplier of 16	Rs.8,06,400/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.8,76,400/-

The award dated 23.03.2012 is modified to the extent that the amount awarded of Rs.5,34,000 /- is enhanced to Rs.8,76,400 /-.

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. However, the interest for the period of 742 days would be excluded as per the order of this Court dated 28.03.2016.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

23.03.2018
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- 1.Whether the order is speaking/reasoned: Yes
- 2.Whether the order is reportable : Yes