

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

1. FAO No.4829 of 2014 (O&M)
Date of decision: 05.12.2018

Suman Devi and another Appellants

Versus

Vinod and others Respondents

2. FAO No.9510 of 2014 (O&M)

Suman Devi and another Appellants

Versus

Vinod and others Respondents

3. FAO No.142 of 2015 (O&M)

Karambir Singh and another Appellants

Versus

Vinod and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Vivek Khatri, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for the Insurance Company.

None for the respondent-State of Haryana.

Avneesh Jhingan, J. (Oral)

These three appeals have been filed against award dated
28.02.2014 passed by Motor Accident Claims Tribunal, Hisar (hereinafter

referred to as 'the Tribunal). The appeals have been filed for enhancement of compensation awarded in claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act').

All appeals arise from a common award, since the cause of action is common, hence, these are being disposed of by a common order.

On the fateful day i.e. 30.01.2013, Kanchan, aged 18 years, alongwith her sister Jyoti, aged 23 years and her friend Sushila, aged 19 years, was going to Kalpana Chawla School, Chickenwas on scooty bearing registration No. HR-20T-7618. When they reached near Tractor Training Centre Hisar, their scooty was hit by a rashly and negligently driven bus bearing registration No. HR-57-6769 (for brevity, 'offending vehicle'). As a result of the impact, all three girls suffered multiple injuries and were taken to General Hospital, Hisar, where they were declared dead by the doctor. FIR No.131 dated 30.01.2013 was registered at Police Station, Sadar Hisar.

Three claim petitions under Section 166 of the Act were filed by the legal heirs of the deceased.

The Tribunal, after considering the facts and on appreciating the evidence produced, held that the accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹4,70,000/- along with interest @ 7.5% per annum each in all the three claim petitions. The Tribunal assessed the notional annual income of the deceased as ₹40,000/- per annum. 1/3rd deduction for self expenses was made. Multiplier of 15

was applied as per second Schedule to the Act. The amount awarded included a sum of ₹15,000/- for transportation and last rites and ₹50,000/- for loss of love and affection.

Learned counsel for the appellants argued that all the three deceased were bright students and were pursuing their studies and had a bright future ahead of them. His grievance is that the Tribunal erred in applying the multiplier relying upon the second schedule to the Act. The deceased were in the age group of 18 to 25 years, hence, multiplier of 18 should have been applied. He further contended that no future prospects have been awarded.

Learned counsel for respondent No.4 defended the award and argued that the claimants failed to adduce any evidence with regard to the monthly earnings of the deceased, hence, the Tribunal rightly assessed the notional income of the deceased as ₹40,000/- per annum.

In view of the decisions of the Supreme Court in **National Insurance Company Ltd. vs. Pranay Sethi and Ors., AIR 2017 SC 5157** and **Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, learned counsel for the insurer could not raise any serious objection for grant of future prospects and for applying the multiplier of 18. He argued that no amount should be awarded for loss of love and affection. He further contended that ½ deduction for self expenses has to be made.

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

All the three deceased were young girls, who were pursuing their studies and had long future ahead in which they had multiple roles to be played as a family. In such circumstances the notional income is on the lower side. Since there is no evidence on record about their occupation or earning, being students it would be appropriate that the minimum wages prevalent in the State at the time of accident of semi-skilled labourers are to be considered for calculating loss of dependency. The minimum wages in the State at the time of accident of semi-skilled labourers was ₹5472/-. These are rounded off to ₹5500/-. Hence, loss of dependency is calculated accordingly.

Having due regard to the decisions of Supreme Court in **Pranay Sethi's** case (supra) and **Hem Raj vs. Oriental Insurance Company Ltd., 2018(2) PLR, 480**, 40% future prospects are to be awarded.

The deceased were 18 to 25 years of age at the time of the accident. In consonance with the decision of the Supreme Court in **Sarla Verma's** case(supra) multiplier of 18 is to be applied.

Since the quantum of compensation is revisited, 50% deduction for self expenses is also being made as per the decision of **Sarla Verma's case (supra)**.

The claimants shall be entitled to ₹15,000/-each for loss of estate and funeral expenses.

In view of the discussion above, since the annual income, multiplier, deduction for self expenses made and amount awarded under the conventional heads are common, a single calculation is being made

hereunder :-

Annual income	₹66,000/-
40% future prospects	₹26,400/-
Total income	₹92,400/-
1/2 deduction for self expenses	₹46,200/-
Dependency	₹46,200/-
Applying multiplier of 18	₹8,31,600/-
Funeral expenses	₹15,000/-
Loss of estate	₹15,000/-
Total	₹8,61,600/-

The award dated 28.02.2014 is modified to the extent that the amount of ₹4,70,000/- awarded by the Tribunal is enhanced to ₹8,61,600/- in all the three claim petitions.

The claimants shall be entitled to enhanced amount along with interest @ 7.5% per annum from the date of filing of the claim petitions till the realization of the amount.

All the three appeals are partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

05.12.2018
anju/sham

1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No