

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

FAO No.3371 of 2015 (O&M)

Date of decision: 10.05.2018

Mahindro Devi and others

.... Appellants

Versus

Kuldeep Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Vinod K.Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against award dated 04.02.2015 passed by Motor Accidents Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal'). The legal heirs of Hukam Chand are in appeal for enhancement of compensation.

On 03.08.2014, Hukam Chand, aged 38 years, was paddling his Rehri, on reaching near cremation ground of village Asmanpur on Pehowa Dhand Road, the Rehri was struck by a rashly and negligently driven jeep bearing registration No.PB-11-BK-7378. As a result of the impact, Hukam Chand suffered serious injuries and succumbed at the spot. FIR No.286 dated 04.08.2014 was registered at Police Station Pehowa, District Kurukshetra.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the widow and two minor children of the deceased.

In the claim petition, it was claimed that the deceased was a rickshaw puller and was earning Rs.15,000/- per month. The claimants failed to prove the monthly income of the deceased. The Tribunal assessed the compensation taking the monthly earning of Rs.4600/-. 50% future prospects were added. 1/3rd deduction for self expenses was made. Multiplier of 15 was applied. The compensation of Rs.9,23,000/- along with interest @7.5% per annum was awarded. The amount awarded included Rs.95,000/- for funeral expenses and loss of consortium

Learned counsel for the appellants has only argued one issue that the Tribunal erred in assessing the earning of the deceased as Rs.4600/-per month which is even less than the minimum wages prevalent in the State of Haryana at the time of the accident.

Learned counsel for the insurer of the offending vehicle contended that 50% future prospects have wrongly been added and the amounts awarded under the conventional heads are on the higher side.

The contention raised by learned counsel for the appellant deserves acceptance.

In the claim petition, it was pleaded that the deceased was a rickshaw puller and was earning Rs.15,000/- per month. In the absence of any proof, the safest yardstick is to rely upon the minimum wages prevalent at the time of the accident. The minimum wages in the State of Haryana at the time of the accident was Rs.5639/-. The compensation is calculated by taking the monthly income of the deceased as Rs.5650/-.

Since the quantum of compensation is being revisited, it would be appropriate to calculate the same inconsonance with the decision of the Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157.**

Having due regard to the decision of the Supreme Court in case of **Pranay Sethi's case (supra)** 40% future prospects are to be added and the claimants are entitled to Rs.70,000/- under conventional heads i.e Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- loss of consortium.

The compensation is recalculated as under :-

Monthly income	Rs.5,650/-
40% future prospects	Rs.2,260/-
Total income	Rs.7,910/-
1/3rd deduction for self expenses	Rs.2,637/-
Dependency	Rs.5,273 /-
Applying multiplier of 15	Rs.9,49,140/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.10,19,140/-

The award dated 04.02.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.9,23,000/- is enhanced to Rs.10,19,140/-.

The claimants would be entitled to enhanced amount along with interest @ 7.5% per annum as awarded by the Tribunal 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

10.05.2018
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- 1.Whether the order is speaking/reasoned:
- 2.Whether the order is reportable :
- Yes/No
- Yes/No