

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

FAO No.5176 of 2014 (O&M)

Date of decision: 15.05.2018

Parvinder Kaur and others

.... Appellants

Versus

Rajinder Sharma and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.A.K.Sharma, Advocate
for the appellants.

Mr. Pardeep Kumar, Advocate
for respondent No.2-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against award dated 24.01.2014 passed by Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal').

A motor vehicular accident took place on 23.04.2013, it proved fatal for Mohan Lal, aged 37 years. The widow, two minor children and parents of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle i.e car made Duster bearing registration No. PB-03AB(T)-1126. The monthly earning of the deceased was assessed as Rs.16,000/-. The Tribunal awarded a sum of Rs.20,00,000/- along with interest @ 7.5% per annum. The amount awarded included

Rs.20,000/- for funeral expenses.

The bare facts necessary for adjudication of the present appeal are that on 23.04.2013 at about 7.30 a.m., Mohan Lal was going on a bicycle. A rashly and negligently driven offending vehicle came from the wrong side and hit the bicycle of Mohan Lal. He died at the spot. FIR No.34 dated 23.04.2013 was registered at Police Station Sanaur.

The present appeal has been filed for enhancement of compensation.

The parties have not disputed the age of the deceased i.e 37 years. There is no dispute of monthly income i.e. Rs.16,000/-.

The issue raised is that the deceased was survived by more than 4 dependants, hence, 1/3rd deduction made by the Tribunal is wrong. No future prospects have been added and the amount awarded under the conventional head is on the lower side.

I have heard learned counsel for the parties and perused the paper book.

The contention raised deserves acceptance in view of the decision of Supreme Court in case of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(6) SCC 121.** The deceased is survived by 4 to 6 dependants, 1/4th deduction for self expenses is to be made.

Having due regard to the decision of the 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 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.16,000/-
40% future prospects	Rs.6400/-
Total income	Rs.22,400/-
1/4 th deduction for self expenses	Rs.5600/-
Dependency	Rs.16,800 /-
Applying multiplier of 15	Rs.30,24,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.30,94,000/-

The award dated 24.01.2014 is modified to the extent that the amount awarded by the Tribunal of Rs.20,00,000/- is enhanced to Rs.30,94,000/-.

The claimants would be entitled to enhanced amount along with interest 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

15.05.2018

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

2.Whether the order is reportable : Yes/No