IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4318 of 2015 (O&M)

Date of Decision: 26.04.2018

Malkiat Kaur

.......Appellant

Versus

Sajjan Singh and others

......Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Hem Raj Bhardwaj, Advocate
for the appellant.

Mr. Ankit Aggarwal, Advocate and
Mr. Anupam Singla, Advocate
for respondents No. 2 and 3.

AVNEESH JHINGAN, J.

Unfortunate mother of Satgur Singh has filed the present appeal against the award dated 04.10.2011 passed by the Motor Accident Claims Tribunal, Sangrur (for short 'the Tribunal'). The appeal is for enhancement of compensation.

An accident took place on 22.12.2009. Satgur Singh aged 33 years was coming home after closing his shop. He was driving motor cycle and at village Bhundar Bhaini at about 6:00 p.m. a bus bearing registration No. PB-11-C-9574 (for short 'the offending vehicle') owned by Pepsu Road Transport Corporation and driven by respondent No. 1 hit the motor cycle of the deceased. The bus was being driven rashly and negligently. As a result of the accident, Satgur Singh died on the spot. FIR No. 147 dated 22.12.2009 was registered at Police Station Moonak.

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

Tribunal held that the accident occurred because of rash and negligent driving of the offending vehicle. It was proved that the deceased was 30 years of age at the time of accident. He was bachelor. The Tribunal awarded a sum of Rs.2,04,000/- alongwith interest at the rate of 8% per annum.

The present appeal has been filed for enhancement of compensation. The grievance is that the monthly income assessed of Rs.3600/- is on the lower side. It is contended that no future prospects have been awarded and multiplier of 9 has wrongly been applied. Further grievance is that Rs.5000/- each awarded for loss of estate and funeral expenses is on the lower side.

Learned counsel for the respondents defended the award and resisted any enhancement.

The claimants in the claim petition pleaded that the deceased was working as electrician and was having income ofRs.40,000/- per month. In support of the claim PW6 Kuldeep Singh was examined. In his statement he deposed that he along with Sukhjinder Singh were working as a helper of the deceased and they were being paid Rs.2500/- each per month. In his cross-examination Kuldeep Singh stated that he does his own work. Sukhjinder Singh never appeared as witness.

From the perusal of paper book and the record, it is evident that at the time of accident, the deceased was coming back home after closing his shop. Though the claimant has not been able to prove the earning of the deceased. Yet the factum that he was running a shop and was working as an electrician has not been rebutted. In such circumstances, it is deemed appropriate that monthly earning of the deceased is assessed as Rs.5000/-.

He was a bachelor and hence ½ deduction is made for self expenses. The Tribunal erred in applying the multiplier of 9, taking into consideration the age of the claimant rather than the age of the deceased.

Reliance is placed upon decisions of the Supreme Court in case of ***Shri Nagar Mal Vs. Oriental Insurance Company Limited, (Civil Appeal No. 448 of 2018)***, decided on 19.01.2018 and ***Sube Singh Vs. Shyam Singh (Civil Appeal No. 7176 of 2015),*** decided on 09.02.2018. The Supreme Court relying upon its earlier decisions in case of ***National Insurance Company Limited Versus Pranay Sethi and others***, 2017 AIR (SC) 5157 and ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another***, 2009(6) SCC 121, has held that multiplier having regard to the age of the deceased should be applied.

Having due regard to the decisions of Supreme Court in case of ***Pranay Sethi's case (supra)*** and ***Hem Raj Versus Oriental Insurance Company Ltd. 2017 DNJ 1102,*** 40% future prospects are to be added and Rs.15,000/- each for funeral expenses and loss of estate are to be awarded.

For the reasons mentioned above, the compensation is recalculated as under:

Annual earning	Rs.60,000/-
40% future prospects	Rs.24,000/- Rs.84,000/-
½ self expenses	Rs.42,000/-
Multiplier of 17 (42000x17)	Rs.7,14,000/-
Conventional Heads (Rs.15000/- each for funeral expenses and loss of estate)	Rs.30,000/-
Total	Rs.7,44,000/-

The award dated 04.10.2011 is modified to the extent that the amount awarded of Rs.2,04,000/- is enhanced to Rs.7,44,000/-.

The claimant would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount except interest for 1164 days. The delay in filing appeal was condoned vide order dated 12.05.2016 subject to the condition that the appellant would not be entitled for interest for the above said period.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

26.04.2018
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Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No