

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

FAO No. 6067 of 2014

Date of decision:-04.05.2018

Phullo Devi and another

---Appellants.

Versus

Satbir and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Siddharth Gulati, Advocate,
for the appellants.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3-Insurance Company.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 24.07.2013 passed by Motor Accident Claims Tribunal, Kaithal (for short 'the Tribunal').

On 15.07.2011, a motor vehicular accident took place when Surender, aged 28 years was driving the motorcycle bearing registration No.HR-07-H-1172 and there was a pillion rider on it. At about 1.30/2.00 p.m., near Holy Child School Karkhana, the motorcycle was hit by a school bus bearing registration No. HR-56-8202 (hereinafter referred to as 'the offending vehicle'). The bus was being driven in a rash and negligent manner and at a fast speed. As a result of the accident, Surender suffered injuries and was shifted to Civil Hospital, Safidon and from there he was referred to PGIMS Rohtak. He succumbed to the injuries on 31.07.2011. FIR No. 181 dated 28.07.2011 was registered.

A claim petition under Section 166 of the Motor Vehicles Act,

1988 (for short 'the Act') was filed by the mother and 18 years old brother of the deceased. The deceased was married but his wife died due to shock after four days of the accident.

The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. Income of the deceased assessed by the Tribunal as Rs.4,000/- per month. The age of the deceased was proved as 28 years at the time of accident. The Tribunal awarded compensation of Rs.3,70,000/- along with interest at the rate of 9% per annum to the claimants. The said amount included Rs.10,000/- towards funeral expenses.

The present appeal has been filed for enhancement of compensation.

Learned Counsel for the appellants argued that no future prospects have been added and deduction of 1/2nd for self expenses of the deceased has been wrongly made. The Tribunal has erred in applying the multiplier of 15. The amount awarded towards funeral expenses is on the lower side and no amount has been awarded for loss of estate.

The contentions raised by the learned counsel for the appellants deserve acceptance. Reliance in this regard is placed upon the decisions of the Supreme Court in cases of **National Insurance Company Ltd. Versus Pranay Sethi and others 2017 AIR SC 5157**, **Hem Raj Versus Oriental Insurance Company Ltd. In civil Appeal No.19603 of 2017, decided on 22.11.2017** wherein it has been held that where the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects are to be awarded. It has further been held that the amounts of Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses are to be awarded.

The multiplier to be applied and deduction to be made has been

settled by the Supreme Court in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Another. (2009) 6 SCC 121.* The deceased was 28 years of age, a multiplier of 17 should have been applied and keeping in view the dependents survived by the deceased, 1/3rd deduction for self expenses has to be made.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹ 4,000/- per month
(ii)	40% added towards future prospects	₹ 4000+1,600=5,600/-
(iii)	1/3 rd deduction towards self expenses of the deceased	₹ 5,600-1,867=3,733/-
(iv)	Multiplier of 17 applied	₹ 3,733X12X17= 7,61,532/-
(v)	Loss of estate	₹15,000/-
(vi)	Funeral expenses	₹15,000/-
	Total Compensation Awarded (iv)+(v)+(vi)	₹ 7,91,532/-

The award dated 24.07.2013 is modified to the extent that the amount awarded of ₹ 3,70,000/- is enhanced to ₹ 7,91,532/-.

The appellants/claimants would be entitled to interest at the rate of 6% per annum on the enhanced amount from the date of filing of the claim petition till realization of the amount.

Accordingly, the present appeal is partly allowed to the above extent.

04.05.2018
Riya Grover

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No