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

**FAO No.3635 of 2016
Date of Decision: 29.11.2018**

Kanta and another

Appellants

Versus

Dharambir Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sunny Namdev, Advocate for
Mr. Saurabh Dalal, Advocate
for the appellants.

Mr. Sachin Ohri, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 25.02.2015 passed by the Motor Accident Claims Tribunal, Rohtak [for brevity 'the Tribunal'] has been assailed seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

Parents of Mr. Naveen Kumar (deceased) are the appellants. Driver of truck bearing registration No. HR-39-1518 [hereinafter referred to as 'offending vehicle'], owner and insurer of the offending vehicle i.e. Bharti AXA General Insurance Company Ltd. have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 15.01.2014, Naveen Kumar, aged 20 years, was riding his motorcycle bearing registration No. HR99-RHTP-1025. He was going to his village Kheri Meham from village Nindana. When he reached near H.D. School, Kheri Meham, the offending vehicle, which was being driven in a rash and negligent manner, hit his motorcycle. As a result of the impact, he fell down and was ran over by the offending vehicle. He died at the spot. FIR was registered.

A claim petition under Section 166 of the Act was filed. The Tribunal, after considering the facts and appreciating the evidence adduced, held that accident occurred due to rash and negligent driven offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹7,49,000/- alongwith interest @ 7.5% per annum. The said amount included ₹25,000/- for funeral expenses and ₹1,00,000/- for loss of love and affection.

The deceased was 20 years old at the time of accident. His monthly income was assessed as ₹8,000/-, ½ deduction for self expenses was made and multiplier of '13' was applied considering the age of mother of the deceased.

Heard learned counsel for the parties, perused the paper book and relevant documents produced.

Learned counsel for the appellants contends that no future prospects have been awarded and the Tribunal erred in applying multiplier considering the age of mother of the deceased.

Learned counsel for the insurer defends the award and argues that no amount should be awarded for loss of love & affection and amount awarded for funeral expenses is on the higher side.

The contentions raised by learned counsel for the appellants deserves acceptance. Having due regard to decisions of the Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157 and Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480 and considering the age of the deceased, 40% future prospects are awarded. Apart from that, the claimants are entitled to ₹15,000/- each for loss of estate and funeral expenses.

The Tribunal erred in applying multiplier of '13' considering the age of mother of the deceased. The multiplier is to be applied as per the age of the deceased at the time of accident. He was 20 years old at the time of accident. In consonance with the decision of the Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21, multiplier of '18' is applied. The issue that multiplier is to be applied considering the age of the deceased is no longer *res-integra*. The Supreme Court in the case of Sube Singh and another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18 has held as under:

“On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e. 22.09.2009. He was unmarried and his parents who filed the petition for

compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased. The legal position, however, is no more res integra. In the case of Munna lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants.”

As the quantum of compensation is being revisited, the amount awarded under the conventional heads are being made in consonance with the decision of the Supreme Court in Pranay Sethi's case (supra) and no amount is being awarded for loss of love and affection.

The compensation is being re-calculated as under:-

Particulars	Amount (in ₹)
Monthly income of the deceased assessed by the Tribunal	8,000/-
40 % Future Prospects	3,200/-
Sub Total	11,200/-
1/2 deduction for self expenses	5,600/-
Monthly Dependency	5,600/-
Annual Dependency	67,200/-
Applying multiplier of 18	12,09,600/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Grand Total	12,39,600/-

The award dated 25.02.2015 is modified to the extent that amount of ₹7,49,000/- awarded by the Tribunal is enhanced by

₹4,90,600/-.

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

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

November 29, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |