

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

FAO No.482 of 2015 (O&M)
Date of decision: 24.05.2018

Surender and another

.... Appellants

Versus

Jagmender Dhanak and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Ram Pal Verma, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The unfortunate parents of Sonu are in appeal for enhancement of compensation awarded by Motor Accidents Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 25.11.2013.

On 26.07.2011, Sonu, aged 20 years, was travelling in an auto rickshaw bearing registration No.HR-69-8602. The auto rickshaw was being driven by Jagmender Dhanak. On reaching near village Barwasni, the auto rickshaw struck the motorcycle bearing registration No.HR-10N-9126 (for short, 'the offending vehicle') in which Sonu sustained injuries and was taken to General Hospital, Sonapat. He died on his way to hospital. FIR No.179/11 was registered at Police Station Sadar, Sonapat.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') by legal heirs of the deceased, the Tribunal vide its award dated 25.11.2013 held that the accident occurred due to rash and negligent

driving of the auto rickshaw. The earning of the deceased was assessed as Rs.5,000/- per month. The compensation of Rs.4,70,000/-along with interest @ 7.5% per annum was awarded. The amount awarded included Rs.10,000/- each for funeral expenses, transportation and loss of estate.

I have heard learned counsel for the parties, perused the paper-book and relevant documents produced by them.

Learned counsel for the appellants contended that no future prospects have been added by the Tribunal and the amounts awarded under the conventional heads are on the lower side. The Tribunal erred in applying the multiplier considering the age of the parents of the deceased.

No other issue has been raised.

Learned counsel for the insurer of the offending vehicle defended the award and resisted any enhancement.

Having due regard to the decisions of the Supreme Court in cases of **National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157** and **Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017** since the deceased was 20 years, hence, 40% future prospects are to be added. Moreover, the appellants would be entitled to Rs.15,000/- each for funeral expenses and for loss of estate.

The Tribunal erred in applying the multiplier considering the age of the parents of the deceased whereas the multiplier is to be applied considering the age of the deceased.

Reliance in this regard is placed on decisions of Supreme Court in cases of **Shri Nagar Mal Vs. Oriental Insurance Company Ltd., Civil Appeal**

No. 448 of 2018, decided on 19.01.2018 and **Sube Singh and another Vs. Shyam Singh (Dead) and others, Civil Appeal No. 7176 of 2015 decided on 09.02.2018**, wherein it has been held that multiplier has to be applied, keeping in view the age of the deceased. The deceased was 20 years of age, multiplier of 18 is to be applied.

There is no dispute regarding the monthly income assessed by the Tribunal. Since the deceased was a bachelor, $\frac{1}{2}$ deduction is to be made for self expenses.

The compensation is recalculated as under :-

Monthly income	Rs.5,000/-
40% future prospects	Rs.2,000/-
Total income	Rs.7,000/-
$\frac{1}{2}$ deduction for self expenses	Rs.3,500 /-
Dependency	Rs. 3,500 /-
Applying multiplier of 18	Rs.7,56,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.7,86,000/-

The award dated 25.11.2013 is modified to the extent that the amount awarded by the Tribunal of Rs.4,70,000/- is enhanced to Rs.7,86,000 /-

The claimants are entitled to enhanced amount along with interest at the rate 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

24.05.2018
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1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No