

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

FAO No. 4433 of 2016

DECIDED ON: NOVEMBER 20, 2018

BECHNI DEVI & OTHERS

.....APPELLANTS

VERSUS

BALJEET SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Rajeev Dev Sharma, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. Lalit Garg, Advocate
for respondent No.3-Insurance Company

AVNEESH JHINGAN, J (ORAL)

The legal heirs of Guddu (deceased) are in appeal against the award dated 01.12.2015 passed by Motor Accident Claims Tribunal, Pathankot (for short 'the Tribunal'). The appeal has been filed for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

2. The driver of Tipper bearing registration No. PB-06-V-2618 (hereinafter referred to as 'offending vehicle'); owner of the offending vehicle and insurer of the offending vehicle i.e. New India Assurance Co. Ltd., have been arrayed as respondents No.1 to 3 respectively in the appeal.

3. The brief facts necessary for adjudication of the present appeal are that on 24.01.2014, Guddu (deceased) alongwith Golu, Pawan Kumar and Hari Ram was going on a motorcycle bearing registration No. PB-46-H-5535 to his work. On the way, motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he (Guddu) suffered multiple grievous and serious injuries and died at the spot. FIR No. 8, dated 24.01.2014, under Sections 304-A, 279, 337, 338 and 427 of the Indian Penal Code was registered at Police Station Verowal, District Tarn Taran.

4. The parents, brother and sisters of Guddu (deceased) filed a claim petition under Section 166 of the Act before the Tribunal.

5. The Tribunal after considering the facts and appreciating the evidence adduced, held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a compensation to the tune of ₹5,98,000/-. The amount awarded included ₹ 1,00,000/-, on account of loss of love and affection. The Tribunal also awarded an amount of ₹ 25,000/- on account of funeral expenses and ₹5,000/- on account of loss of estate.

6. Heard learned counsel for the parties and perused the paper book.

7. Learned counsel for the appellants contended that no future prospects

have been awarded. The Tribunal erred in applying the multiplier of 13 considering the age of mother of the deceased. He further argued that no interest has been awarded by the Tribunal on the compensation amount.

9. Learned counsel for the respondent-Insurance Company argued that no amount should have been awarded for loss of love and affection and the amount awarded under the conventional heads should be in consonance with the decision of the Supreme Court **National Insurance Co. Ltd. vs. Pranay Sethi and others;** 2017 (4) RCR (Civil) 1009 and **Hem Raj vs. Oriental Insurance Company Ltd;**2018 (2) PLR 480.

10. There is no dispute between the parties that the deceased was 18 years of age at the time of accident. As per the law laid down by the Supreme Court, **40%** future prospects are to be awarded. Claimants are also entitled to a sum of ₹15,000/- each, for funeral expenses and for loss of estate.

11. The contention of learned counsel for the appellants with regard to application of multiplier deserves acceptance.

12. 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.”

13. In view of the judgment of the Supreme Court in *Sube Singh's* case (supra), multiplier has to be applied considering the age of the deceased and not of the parents. Considering the age of the deceased, multiplier of 18 is to be applied.

14. As the quantum of compensation is being revisited, the compensation with regard to conventional heads are to be made in consonance with the judgment of the Supreme Court in the cases of *Pranay Sethi (supra) and Hem Raj (Supra)*

15. In view of afore-said discussion, the compensation is recalculated as under:

	Head	Compensation awarded
(i)	Income	₹6,000/- per month (assessed by the Tribunal)
(ii)	Future prospects at 40%	₹2400/- per month
(iii)	Total Income	₹8400/- per month
(iv)	Deduction of personal expenses	₹4200/- (i.e. 1/2 nd of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Total Dependency	₹4200x12x18=₹9,07,200/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹9,37,200/-

16 The contention raised by learned counsel for the appellants that interest should have been awarded, deserves acceptance. Section 171 of the Act provides for the statutory interest. A perusal of the award will show that the Tribunal has not dealt with the awarding of interest.

17 The Apex Court in case *Dharampal and others vs. U.P. State Road*

Transport Corpn. 2008(12) SCC 208 has held as under :-

“8. As per Section 171 of the Motor Vehicle Act, 1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.”

18. Having due regard to decisions quoted above, the appellants shall also be entitled to interest @7.5% per annum on the entire amount i.e. amount awarded by the Tribunal and enhanced amount, from the date of filing of the claim petition till realization of the amount.

19. The award dated 01.12.2015 is modified to the extent that amount awarded of ₹5,98,000/- is enhanced to ₹9,37,200/- and the claimants/appellants shall be entitled to interest @7.5 % per annum on the entire amount of compensation.

20. The appeal is partly allowed in the afore-said terms.

NOVEMBER 20, 2018

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***