

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 7725 of 2014 (O&M)

Date of Decision: 24.05.2018

Bimla and another

.....Appellants

Versus

Ramesh Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Thakan, Advocate
for the appellants.

Mr. R.K. Bashamboo, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 24.5.2014 passed by the Motor Accidents Claims Tribunal, Bhiwani (for short 'the Tribunal'). The legal heirs of Virendra, aged 24 years, are in appeal for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') on account of death of Virendra.

The brief facts are that on 30.4.2012 Virendra was travelling on a motor cycle bearing registration No.HR-19-D-9766 along with Vikash. Near Dhigawa road, Badhra, the motor cycle was struck by a rashly and negligently driven Mahindra Bolero bearing registration No.HR-19-B-0119 (for short 'the offending vehicle'). As a result of the injuries suffered in the accident, Virendra lost his life.

In the claim petition filed, the Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The Tribunal assessed the monthly earning of the deceased as that of a skilled

labourer i.e. Rs.6160/-; ½ deduction was made for self expenses and a sum of Rs.5,00,480/- was awarded as compensation alongwith interest at the rate of 6% per annum. The amount awarded included Rs.20,000/- for loss of love and affection and for funeral expenses.

The present appeal has been filed for enhancement of compensation.

In the claim petition it was pleaded that the deceased was working as a Barber and was earning Rs.15,000/- per month. The said claim was not substantiated. Neither it was proved that he was working as Barber nor his claimed income was supported by any evidence. In such circumstance, the Tribunal relying upon the minimum wages prevalent at the time of accident and treating the deceased to be a skilled labourer, assessed the income as Rs.6160/- per month. The said assessment of income needs no interference.

Having due regard to the decision of the Supreme Court in **National Insurance Company Limited Versus Pranay Sethi and others** 2017 AIR (SC) 5157 and in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)**, 40% future prospects should be added. ½ deduction for self expenses is to be made as the deceased was a Bachelor. The appellants would also be entitled to Rs.15,000/- each for funeral expenses and for loss of estate.

The Tribunal erred in applying the multiplier of 13 considering the age of the parents of the deceased whereas multiplier is to be applied taking into account the age of the deceased. Reliance in this regard is placed on the decision of 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 in case of Sube Singh Vs. Shyam Singh (Civil Appeal No. 7176 of 2015), decided on 09.02.2018.

There is no dispute with regard to the age of the deceased i.e. 24 years at the time of accident and as per Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(6)SCC 121, multiplier of 18 is to be applied

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

Monthly income	Rs.6160/-
40% future prospects	Rs.2464/- Rs.8624/-
½ deduction for self expenses	Rs.4312/-
multiplier of 18 (4312x12x18)	Rs.9,31,392/-
Conventional heads	Rs.30,000/-
Total	Rs.9,61,392/-

The award dated 24.5.2014 is modified to the extent that the amount awarded of Rs.5,00,480/- is enhanced to Rs.9,61,392/-.

The claimants 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.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

24.05.2018

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