

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

FAO No. 522 of 2016

Date of decision:- 16.05.2018

Bimla Devi

---Appellant.

Versus

Lokesh Kumar and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Sandeep Kumar Sharma, Advocate,
for the appellant.

Mr. Mandeep Singh Kundu, Advocate,
for respondent No.1-Driver.

Mr. Vinod Gupta, Advocate,
for respondent No.3-Insurance Company.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 18.09.2015 passed by Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal').

On 18.07.2014, a motor vehicular accident took place. Rahul, was going to Kharkhoda on motorcycle bearing registration No.HR-13H/4841. Near village Gaddi-Sisana his motorcycle was struck by a truck bearing registration No. HR-69/B/2365 (for short 'Offending Vehicle'). As a result thereof, Rahul fell down and suffered grievous injuries. He was taken to PGIMS, Rohtak where he succumbed to his injuries.

The unfortunate mother, who lost her 20 years old young son, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The Tribunal held that the accident occurred due to rash and

negligent driving of the offending vehicle. The Tribunal after considering the facts, awarded a sum of ₹5,93,000/- along with interest at the rate of 7.5% per annum. The said amount included ₹1,25,000/- towards funeral expenses and loss of love and affection.

The present appeal has been filed by the appellant for enhancement of compensation.

I have heard learned counsel for the parties, perused the case file and relevant documents produced by them.

Learned counsel for the appellant argued that while awarding the compensation, no future prospects have been added by the Tribunal. He further contends that Tribunal has erred in applying the multiplier of 13, considering the age of mother of the deceased whereas a multiplier of 18 have to be applied after taking into consideration the age of the deceased.

On the other hand, learned counsel for the insurer argued that no amount for love and affection could have been awarded by the Tribunal. He further contends that multiplier of 13 has rightly been awarded after considering the age of mother of the deceased.

Parties have not disputed the income of the deceased as assessed by the Tribunal.

The contentions raised by the learned counsel for the appellant, deserve acceptance.

As per the decision of the Supreme Court in the case of ***Sarla Verma and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 121***, 1/2nd deduction for self expenses is to be made where the deceased is bachelor. The Tribunal erred in applying the multiplier after considering the age of the parents of the deceased. The multiplier is to be

applied taking into consideration the age of the deceased. Reliance in this regard is placed upon the decisions of the Supreme Court in *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). The Supreme Court relying upon its earlier decision in *National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157* has held that multiplier having regard to the age of the deceased should be applied.

Since the deceased was 20 years of age at the time of accident, the multiplier of 18 is to be applied.

In consonance with the decisions of the Supreme Court in *National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157* and *Hem Raj Vs. Oriental Insurance Company Ltd., 2017 DNJ 1102*, 40% future prospects are to be added. It has further been held that the amounts of ₹15,000/- for the loss of estate and ₹15,000/- for funeral expenses are to be awarded.

Since the quantum of compensation is being revisited, no amount can be awarded for loss of love and affection as per *Pranay Sethi's Case (supra)*.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹6,000- per month
(ii)	40% added towards future prospects	₹6,000+2,400=8,400/-
(iii)	1/2 nd deduction towards self expenses of the deceased as he was bachelor	₹8,400-4,200=4,200/-
(iv)	Multiplier of 18 applied	₹4,200X12X18= 9,07,200/-
(v)	Loss of estate	₹15,000/-
(vi)	Funeral expenses	₹15,000/-
	Total Compensation Awarded (iv)+(v)+(vi)	₹9,37,200/-

The award dated 18.09.2015 is modified to the extent that the amount awarded of ₹ 5,93,000/- is enhanced to ₹9,37,200/-.

The appellant/claimant would be entitled to interest at the same rate as awarded by Tribunal 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.

16.05.2018

Riya Grover

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No