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

**1. FAO No.808 of 2014
Date of Decision: 07.12.2018**

Smt. Manju and others

Appellants

Versus

Ashok Kumar and others

Respondents

2. FAO No.809 of 2014

Smt. Sunita Devi and others

Appellants

Versus

Ashok Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. M.S. Randhawa, Advocate
for the appellants.

Mr. Navin Mahajan, Advocate
for respondents No.1 and 2.

Mr. Neeraj Khanna, Advocate for
Mr. R.N. Singal, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 04.10.2013 passed by the Motor
Accident Claims Tribunal, Narnaul [for brevity 'the Tribunal'] in MACT

Case Nos.68/2013 and 69/2013 have been assailed by the legal heirs of Ajay Kumar and Pawan Kumar separately in two appeals, for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The legal heirs of Ajay Kumar and Pawan Kumar are the appellants. The driver of Truck bearing registration No. HP-12D-7523 [hereinafter referred to as 'offending vehicle'], owner and insurer i.e. National Insurance Co. Ltd., of the offending vehicle have been arrayed as respondents No.1 to 3 respectively in both the appeals. As both the appeals arise out of the same award and same accident, these are being disposed of by a common order.

The brief facts necessary for adjudication of the present appeals are that on 01.04.2013, Ajay Kumar and Pawan Kumar were going towards Hero Honda Chowk, Narnaul on a motorcycle bearing registration No. HR-35A-6367. When they reached near Sonalika Agency, on Nizampur Road, their motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, both the occupants of the motorcycle fell down and Ajay Kumar was crushed underneath the rear tyre and died at the spot, Pawan Kumar died during the treatment. FIR No.156, dated 01.04.2013 was registered at Police Station City Narnaul.

Two claim petitions under Section 166 of the Act were filed by legal heirs of Ajay Kumar and Pawan Kumar. The Tribunal, after considering the facts and appreciating the evidence adduced,

held that 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.

It was claimed that both deceased were working as Carpenter and were earning ₹20,000/- per month. The claimants failed to substantiate the occupation and monthly earning of the deceased by adducing any cogent evidence. The Tribunal assessed monthly income of the deceased as ₹4,200/- per month, made ½ deduction for self-expenses as they were bachelor. Multiplier of '15' was applied by considering the age of mother of the deceased. The Tribunal awarded sum of ₹3,98,000/- each in both the claim petitions, alongwith interest @ 7.5% per annum.

Heard learned counsel for the parties, perused the paper books and record.

Learned counsel for the appellants contends that no future prospects have been awarded and amounts awarded under the conventional heads are on the lower side. The grievance is that the Tribunal erred in applying multiplier of '15' keeping in view the age of mother of the deceased.

Learned counsel for the insurer defends the award and argues that no amount for loss of love and affection should be awarded.

There is no dispute between the parties with regard to

monthly earning of the deceased and ½ deduction made for self-expenses.

The contentions raised by learned counsel for the appellants deserve acceptance. The deceased were 20 and 22 years old at the time of accident.

Having due regard to the decision 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**, 40% future prospects are awarded. The appellants are entitled to ₹15,000/- each for funeral expenses and loss of estate.

The Tribunal erred in applying multiplier of '15' 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. 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 being applied in both the cases.

The issue that multiplier is to be applied as per 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, it would be appropriate that amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in **Pranay Sethi's** case (supra). No amount is awarded for loss of love and affection.

In view of above discussion, compensation is re-calculated as under:-

Particulars	Amount (in ₹)
Monthly income of the deceased assessed	4,200/-
40 % Future Prospects	1,680/-
Sub Total	5,880/-
½ deduction for self expenses	2,940/-
Monthly Dependency	2,940/-
Annual Dependency	35,280/-
Applying multiplier of '18'	6,35,040/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Grand Total	6,65,040/-

The award dated 04.10.2013 passed in MACT Case Nos.68 of 2013 and 69 of 2013 is modified to the extent that amount of ₹3,98,000/- awarded by the Tribunal is enhanced to ₹6,65,040/-.

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 partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

December 07th, 2018

pankaj baweja

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