IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8162 of 2014 (O&M)
Date of decision: 04.05.2018

Anita .... Appellant

Versus

Jasbir Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. J.S.Saneta, Advocate
for the appellant.

Mr.N.S.Behgal, Advocate
for respondents No.1 and 2.

Mr.Pradeep Kumar, Advocate
for respondent No.3.

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Avneesh Jhingan, J.

The present appeal has been filed against the award dated 16.05.2014 passed by Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as the 'Tribunal') in MACT Case No.42 of 2012-2014.

The mother of Rahul Hans is in appeal being aggrieved of quantum of compensation awarded by the Tribunal. Respondent No.1 is the driver, respondent No.2 is owner and respondent No.3 is insurer of truck-trolla bearing registration No.MH-46H-2711.

A motor vehicular accident took place on 30.09.2012 on Ambala-Hisar Road near village Saini Majra, Jansui, District Ambala. Rahul Hans and Pankaj Hans were going on a motorcycle bearing registration No.HR-01S-7680. When they reached on Ambala-Hisar Road, the motorcycle was struck by a rashly and negligently driven truck-trolla bearing registration No.MH-

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46H-2711 (for short, 'the offending vehicle'). Due to the impact, they suffered injuries. Both the injured were taken to the hospital. Thereafter, they were referred to PGI, Chandigarh. Rahul Hans succumbed to the injuries in PGI, Chandigarh on 04.10.2012. FIR No.139 dated 30.09.2012 was registered at Police Station Naggal.

The mother of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'). The Tribunal awarded a sum of Rs.6,17,000/- along with interest @ 7.5% per annum.

The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. It was proved that the deceased was a student of Ist Semester, B.Tech.

Learned counsel for the appellant contended that the Tribunal erred in assessing the monthly income of the deceased as Rs.4,000/-as he was a student of Ist Semester, B.Tech and having a bright future. He argued that the Tribunal erred in applying the multiplier taking into consideration the age of the mother of the deceased. His further grievance is that no amount has been awarded for loss of estate.

Learned counsel for the Insurer contended that the deceased was still a student and was not earning. In such circumstances, the income was rightly assessed by the Tribunal. He argued that Rs.25,000/- has been awarded for loss of love and affection which could not be awarded and the amount awarded for funeral expenses is on the higher side. He contended that 50% future prospect have wrongly been added.

The appellant had lost her young son, aged 21 year, in a motor vehicular accident. No amount of money can compensate her loss. The Court

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has a duty to award a just and equitable compensation. It was proved on record that the deceased was a student of Ist Semester, B.Tech and at the time of accident he was not earning. Be that as it may, he had a bright future ahead of him being a person of technical line. In the absence of any proof of earning, the safest yardstick would be to rely upon the minimum wages. Since he was doing a technical education, it would be appropriate to assess his monthly earning as of a skilled labourer. During the relevant time, Rs.5500/-per month was the minimum wages for a skilled labourer.

Since the compensation is being revisited, it would be appropriate to award compensation in consonance with the decision of Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157,*** 40% future prospects are to be added. The appellant would be entitled to Rs.15,000/- each for funeral expenses and loss of estate and no amount can be awarded for loss of love and affection.

The deceased was a bachelor, hence, one half deduction for self expenses has rightly been made by the Tribunal. The Tribunal erred in applying the multiplier considering the age of the mother of the deceased. The multiplier is to be applied as per the age of the deceased. The deceased was 21 years of age, hence, multiplier of 18 is to be applied.

Reliance in this regard is placed upon the 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***, considering the decisions of ***Smt. Sarla Verma and Pranay Sethi's cases (supra)*** and it has been held that multiplier is to be

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applied, keeping in view the age of the deceased.

The compensation is recalculated as under :-

Monthly income	Rs.5,500/-
40% future prospects	Rs.2,200/-
Total income	Rs.7,700/-
½ deduction for self expenses	Rs.3,850/-
Dependency	Rs.3,850/-
Applying multiplier of 18	Rs.8,31,600/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Medical expenses	Rs.27,000/-
Total	Rs.8,88,600/-

The award dated 16.05.2014 is modified to the extent that the amount awarded by the Tribunal of Rs.6,17,000/- is enhanced to Rs.8,88,600/-.

The claimant would be entitled to enhanced amount along with interest 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

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

2.Whether the order is reportable : Yes/No

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