

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

FAO No. 7316 of 2015

Date of decision:-14.05.2018

Gang Bahadur and another

---Appellant(s).

Versus

Pramod Malik and another

---Respondent(s).

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. R. K .Rana, Advocate,
for the appellants.

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

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 10.03.2015 passed by Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal').

On 12.10.2013, a motor vehicular accident took place when Subhash was going on his bicycle, a car bearing registration No.HR-29-Q-2580 (in short 'Offending Vehicle') hit his bicycle. He suffered injuries as a result thereof, he lost his life. FIR No. 516 dated 13.10.2013 was registered in Police Station, Baldev Nagar.

A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by legal heirs of deceased.

The Tribunal assessed the monthly earning of deceased as ₹3,300/- and awarded compensation of ₹3,63,200/- along with interest at the rate of 7.5% per annum to the claimants. The said amount included ₹20,000/- for conventional heads.

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

Parties have not disputed the income of deceased as assessed by the Tribunal. Learned counsel for the appellants raised only one issue that the Tribunal has erred in applying the multiplier of 13, considering the age of the parents of the deceased whereas a multiplier of 16 has to be applied after taking into consideration the age of the deceased i.e. 19 years at the time of accident.

Learned counsel for the insurer argued that the compensation awarded under the conventional heads ₹ 20,000/- is on higher side, whereas as per the Second Schedule of the Act ₹ 2,000/- is to be awarded for funeral expenses and ₹ 2,500/- is to be awarded for loss of estate.

The contentions raised by the learned counsel for the parties deserve acceptance.

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 decision 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 decisions in **National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157** and **Smt. Sarla Verma and Others Versus Delhi Transport Corporation and Another 2009 (6) SCC 121** has held that multiplier having regard to the age of the deceased should be applied.

Since the deceased was 19 years of age at the time of accident, the multiplier of 16 is to be applied.

In claim petition under Section 163-A, the amount under the conventional heads is to be awarded as per the Second Schedule of the Act.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Annual earning	₹39,600/-
(ii)	1/3 rd deduction towards self expenses of the deceased	₹39,600-13,200=26,400/-
(iii)	Multiplier of 16 applied	₹26,400X16= 4,22,400/-
(iv)	Loss of estate	₹2,500/-
(v)	Funeral expenses	₹2,000/-
	Total Compensation Awarded (iii)+(iv)+(v)	₹4,26,900/-

The award dated 10.03.2015 is modified to the extent that the amount awarded of ₹3,63,200/- is enhanced to ₹4,26,900/-.

The appellants/claimants would be entitled to interest at the rate of 6% per annum 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.

14.05.2018

Riya Grover

(AVNEESH JHINGAN)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No