

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

FAO No. 7638 of 2015
DATE OF DECISION : 10.05.2018

Vidya Devi

....APPELLANT

Versus

Yad Ram and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Madhulika Siwal, Advocate, for
Mr. Atul Yadav, Advocate, for the appellant.

Mr. Punit Jain, Advocate, for respondent No.3.

Mr. M.B. Jain, Advocate, for respondent No.7.

Ms. Monika Singh, Advocate, for respondent No.9.

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AVNEESH JHINGAN, J. (Oral)

The present appeal is against the award dated 21.03.2015 passed by the Motor Accident Claims Tribunal, Rewari (for short, `the Tribunal').

2. The widow of Samay Singh has filed the present appeal for enhancement of compensation awarded by the Tribunal under Section 166 of the Motor Vehicles Act, 1988 (for short, `the Act').

3. On 13.07.2012, a motor vehicular accident took place. The said accident proved fatal for Samay Singh, aged 45 years. He was waiting for a conveyance at bus stand Dharuhera. A Rajasthan Roadways bus and a

Haryana Roadways bus were picking passengers, in the meanwhile, a truck bearing registration No. RJ-32-GA-8751 (for short, 'the offending vehicle') came at a high speed and struck the Haryana Roadways bus. Due to the impact, the Haryana Roadways bus struck Samay Singh. As a result of the impact, he suffered injuries and was taken to H-way Hospital, Dharuhera. From there, he was shifted to SMS Hospital, Jaipur. He succumbed to injuries on 07.08.2012. FIR No. 274 dated 13.07.2012 was registered at Police Station Dharuhera.

4. A claim petition under Section 166 of the Act was filed by the widow of the deceased, claiming that the deceased, being an agriculturist and shop-keeper, was earning ₹ 10,000/- per month. This however was not substantiated by the claimant. The Tribunal assessed the monthly earning of the deceased as ₹ 5,000/-. It was held that the accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 45 years. One-half deduction for self expenses was made and a multiplier of 14 was applied. The Tribunal awarded compensation of ₹ 7,13,450/- along with interest at the rate of 7.5% per annum. The amount awarded includes ₹ 1,00,000/- for loss of consortium; ₹ 10,000/- towards funeral expenses; and medical expenses worth ₹ 1,83,450/-.

5. Learned counsel for the appellant contends that no future prospects have been added and no compensation for loss of estate has been awarded by the Tribunal.

6. Learned counsel for the respondents submit that the amounts awarded under the conventional heads are on the higher side. They defended the awarded and resisted any enhancement.

7. The deceased was 45 years of age. Though his earning was not proved, yet it was assessed relying upon the minimum wages prevalent at the time of the accident. Having due regard to decisions of the Supreme Court in *National Insurance Company Limited Versus Pranay Sethi and others*, AIR 2017 (SC) 5157 and *Hem Raj Versus Oriental Insurance Company Ltd.*, 2017 DNJ 1102, 25% future prospects are to be added for awarding compensation. One-half deduction for self expenses has been rightly made, as there is only one claimant. Since the compensation is being re-visited, the amounts awarded under the conventional heads are made in accordance with the decision of the Supreme Court in *Pranay Sethi's case* (supra). The appellant would be entitled to ₹ 70,000/- under the conventional heads, i.e. ₹ 15,000/- each for loss of estate and funeral expenses and ₹ 40,000/- for loss of consortium.

8. The compensation is re-calculated as under :-

Annual Income	₹ 60,000/-
Add 25% future prospects	₹ 15,000/-
Total	₹ 75,000/-
1/2 deduction for self expenses	₹ 37,500/-
Dependency	₹ 37,500/-
Applying multiplier of 14	
(37500 x 14)	₹ 5,25,000/-
Funeral expenses	₹ 15,000/-
Loss of estate	₹ 15,000/-
Loss of consortium	₹ 40,000/-
Medical expenses	₹ 1,83,450/-
Total	₹ 7,78,450/-

9. The award dated 21.03.2015 is modified to the extent that the

amount of ₹ 7,13,450/- awarded by the Tribunal is enhanced to ₹ 7,78,450/-.

10. The appellant would be entitled to enhanced amount along with interest at the rate as awarded by the Tribunal from the date of filing of the claim petition till realisation of the amount.

11. The appeal is partly allowed in the aforesaid terms.

May 10, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

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