

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

FAO No.9475 of 2014
Date of decision: 13.11.2018

Savitri

.... Appellant

Versus

Mahender Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr.Ajit Kumar Sharma, Advocate for
Mr. R.D.Yadav, Advocate
for the appellant.

Mr. Rajbir singh, Advocate and
Mr.Kulwinder Singh, Advocate
for respondent No.2.

Avneesh Jhingan, J. (Oral)

The present appeal has been filed against award dated
01.10.2014 passed by Motor Accidents Claims Tribunal, Rewari
(hereinafter referred to as 'the Tribunal').

Notice of motion qua only respondent No.2.

Mr. Rajbir singh, Advocate, who is present in Court, accepts
notice on behalf of respondent No.2. By consent of both the parties, the
case is taken on merits.

The issues raised in the present appeal are that the multiplier

and deduction for self expenses have not been made as per IInd Schedule of the Act.

The brief facts emanating from the record are that a motor vehicular accident took place on 02.12.2012. The vehicle involved was a tempo bearing registration No. HR-47B-5729 driven and owned by Mahender Singh-respondent No.1. Sandeep, aged 20 years, lost his life in the said accident. The mother of the deceased filed a claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for brevity, 'the Act').

The Tribunal, after considering the facts and on appreciating the evidence produced, assessed the monthly income of the deceased as ₹3,000/-. The age of the deceased was taken as 20 years as per post-mortem report; multiplier of 13 was applied and 1/3rd deduction for self expenses was made. The Tribunal awarded a sum of ₹1,76,000/- along with interest @ 6% per annum. It included ₹10,000/- each for funeral expenses and loss of consortium.

Learned counsel for the appellant contended that the Tribunal erred in applying the multiplier of 13 after considering the age of the mother of the deceased. He further argued that the Tribunal erred in making 1/3rd deduction for self expenses twice.

Learned counsel for the insurer could not raise any serious objection with regard to applying the multiplier as per age of deceased. But, he argued that the compensation awarded under the conventional heads is on the higher side.

The contention raised by learned counsel for the appellant

deserves acceptance.

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.”

The exact age of the appellant is not forthcoming, hence, it is considered that he was 20 years of age and multiplier of 16 is applied as per IInd Schedule of the Act.

As per IInd Schedule of the Act, 1/3rd deduction is to be made and the appellant will be entitled to ₹2,000/-for funeral expenses and ₹2500/- for loss of estate.

In view of the above discussion, the compensation is recalculated as under :-

Annual income	₹36000/-
1/3 rd deduction for self expenses	₹12000/-
Dependency	₹24000/-
Applying multiplier of 16	₹3,84,000/-
Funeral expenses	₹2,000/-
Loss of estate	₹2500/-
Total	₹3,88,500/-

The award dated 01.10.2014 is modified to the extent that the amount awarded by the Tribunal of ₹1,76,000/-is enhanced to ₹3,88,500/-.

The claimant shall be entitled to enhanced amount along with interest @ 7.5% per annum 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

13.11.2018
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- 1.Whether the order is speaking/reasoned: Yes/No
2.Whether the order is reportable : Yes/No