

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 1887 of 2017 (O&M)

Date of Decision: 24.05.2018

Priyanka Yadav and others

.....Appellants

Versus

Satyabir and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Devender Arya, Advocate
for the appellants.

Ms. Anamika Mehra, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 12.01.2016 passed by the Motor Accidents Claims Tribunal, Narnaul (for short 'the Tribunal'). The appeal has been filed by the legal heirs of Parveen for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The brief facts of the case are that on 20.02.2015 Parveen aged 23 years along with Pawan was going on a motor cycle. On reaching near Swati Dharamkanta, Neerpur, the motor cycle was struck by an Oil Tanker bearing registration No.UP-83T-4728 (for short 'the offending vehicle'). Parveen sustained injuries and was taken to Government Hospital, Narnaul, where the doctor declared him dead. FIR No.104 dated 21.02.2015 was registered at Police Station City Narnaul.

In a claim petition filed under Section 166 of the Act, the Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. An amount of Rs.8,22,600/- was awarded along with

interest at the rate of 9% per annum.

I have heard learned counsel for the parties, perused the paper book and the relevant record produced by them.

Learned counsel for the appellants contended that the Tribunal erred in assessing the monthly income of the deceased as Rs.4800/-, as the same is even less than the minimum wages prevalent at the time of accident. His grievance is that no future prospects have been added and the amount awarded under conventional heads is on lower side.

Learned counsel for the insurer of the offending vehicle defended the award and resisted any enhancement. She argued that the occupation and the earning of the deceased was not proved, in such circumstance, the monthly income was rightly assessed by the Tribunal.

The parties have not disputed the age of the deceased. There is no dispute with regard to 1/4th deduction made for self expenses and the multiplier of 18 applied by the Tribunal. No doubt, the claimants were not able to prove the occupation and earning of the deceased. In such circumstance, the safest yardstick would be to rely upon the minimum wages prevalent in the State at the time of accident. Keeping in view the fact that the deceased was just 23 years of age and considering the minimum wages, the monthly income of the deceased is assessed as Rs.6000/-.

Having due regard to the decision of Supreme Court in **National Insurance Company Limited Versus Pranay Sethi and others** 2017 AIR (SC) 5157 and in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)**, 40% future prospects are to be added. The claimants would also be entitled to Rs.70,000/- under conventional heads i.e. Rs.15,000/- for loss of estate,

Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

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

Monthly earning	Rs. 6000/-
40% future prospects	Rs.2400/- Rs.8400/-
¼ deduction for self expenses	Rs.2100/- Rs.6300/-
Multiplier of 18 (6300x12x18)	Rs.13,60,800/-
conventional heads	Rs. 70,000/-
Total:	Rs. 14,30,800/-

The award dated 12.01.2016 is modified to the extent that the amount awarded of Rs.8,22,600/- is enhanced to Rs.14,30,800/-.

The claimants would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

24.05.2018
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No