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

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**FAO No.3273 of 2017 (O&M)
Date of Decision: 18.12.2018**

Simarjit Kaur and another

Appellants

Versus

Barinder Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate
for the appellants.

Ms. Sakshi Bakshi, A.A.G., Punjab.

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AVNEESH JHINGAN, J (Oral):

The award dated 10.05.2016 passed by the Motor Accident Claims Tribunal, Hoshiarpur has been assailed by the parents of Amritpal Singh, seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver of bus bearing registration No. PB-06M-9519 [hereinafter referred to as 'offending vehicle']; State of Punjab; Director, State Transport Punjab; Punjab Roadways, Batala and Managing Director, Punjab State Bus Stand Management Company Ltd. have been arrayed as respondents No.1 to 5 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 01.04.2015, Amritpal Singh was riding his motorcycle bearing registration No.PB-07AR-3284. On his way, he was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he fell down and sustained multiple injuries including head injury. He was taken to Civil Hospital, Dasuya, from where he was taken to Capital Hospital, Jalandhar and then to Satyam Hospital and Trauma Centre, Jalandhar where he died on 04.04.2016. FIR was registered.

A claim petition under Section 166 of Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The respondents were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹9,91,904/- alongwith interest @ 7.5% per annum. The said amount included ₹1,00,000/- for loss of love & affection, ₹25,000/- for funeral expenses and ₹2,18,904/- for medical expenses.

In the claim petition, it was pleaded that the deceased was 17 years old, he had passed his 10+2 examination and was giving tuitions and was earning ₹15,000/- per month. The claimants failed to produce any cogent evidence regarding occupation and monthly income of the deceased, the Tribunal assessed the monthly income of the deceased as ₹6,000/-; ½ deduction for self-expenses was made and multiplier of '18' was applied.

Heard learned counsel for the parties, perused the paper book and relevant documents produced.

Learned counsel for the appellants contends that the deceased was 10+2 qualified and was having a bright future ahead, the Tribunal erred in assessing monthly income of the deceased as ₹6,000/- which is even less than the minimum wages of an un-skilled labourer. Grievance raised is that nothing has been awarded for future prospects and for loss of estate.

Learned State counsel argues that the claimants failed to substantiate the occupation and monthly earning of the deceased. She further submits that no amount should be awarded for loss of love & affection and the amount awarded for funeral expenses is on the higher side.

The claimants had failed to produce any evidence with regard to earning of the deceased though it has not been disputed that he has passed 10+2 examination, in such circumstances, it would not be appropriate to equate the deceased with an unskilled labourer. Since there is nothing on record to establish the monthly earning of the deceased, the safest yardstick is to rely upon the minimum wages prevalent in the State at the time of accident.

Keeping in view the facts of the present case, deceased is treated as a semi-skilled labourer. At the time of accident, the minimum wages for a semi-skilled labourer were ₹7,633/- per month. The same is rounded off to ₹7,650/- for the purpose of calculating the compensation.

Having due regard to the decision of the Supreme Court in cases of ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480*** and considering the fact that deceased was much below 40 years of age, 40% future prospects are awarded. The claimants are also entitled to Rs.15,000/- each for funeral expenses and for loss of estate.

There is no dispute regarding ½ deduction for self-expenses and multiplier of '18'. No amount is awarded for loss of love & affection.

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

Particulars	***Amount (in ₹)***
Monthly income of the deceased assessed	7,650/-
40 % Future Prospects	3,060/-
Sub Total	10,710/-
1/2 deduction for self expenses	5,355/-
Monthly Dependency	5,355/-
Annual Dependency	64,260/-
Applying multiplier of '18'	**11,56,680/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Medical Expenses as awarded by the Tribunal	**2,18,904/-**
Grand Total	**14,05,584/-**

The award dated 10.05.2016 is modified to the extent that amount of ₹9,91,904/- awarded by the Tribunal is enhanced to ₹14,05,584/-.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

December 18th, 2018
pankaj baweja

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No