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

FAO No. 395 of 2017 (O&M)
Date of decision:- 15.05.2018

Paramjit Kaur @ Pammi and another

---Appellants.

Versus

Dalbir Singh and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Ashok Jindal, Advocate,
for the appellants.

Mr. R. K. Girdhar, Adocate,
for respondent Nos.1 and 2.

Mr. Neeraj Khanna, Advocate, and
Mr. Ravinder Arora, Advocate,
for respondent No.5.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 04.08.2016 passed by Motor Accident Claims Tribunal, Sri Muktsar Sahib (for short 'the Tribunal').

On 20.02.2015, a motor vehicular accident took place. Balkar Singh @ Bittu, aged 43 years, was driving light motor vehicle bearing registration No. RJ-32-GA-1025 and was coming from Sri Ganganagar to Malout. Near Village Balluana which is just one KM beyond Malout, his vehicle was struck by truck bearing registration No.RJ-19-1G-1453 (for short ' the Offending Vehicle'). As a result of the accident, he suffered grievous injuries and lost his life.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (in short 'Act') was filed by widow and daughter of the deceased.

The Tribunal held that accident occurred due to the rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of Rs.5,80,000/- along with interest at the rate of 7.5% per annum. The said amount included Rs.5,000/- each towards funeral expenses, loss of love and affection and Rs. 10,000/- for loss of consortium.

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

Learned counsel for the appellants contended that the deceased was working as a driver of LMV vehicle. Even at the time of accident he was driving the said vehicle. The contention raised by the learned counsel for the appellants is that monthly income of the deceased assessed as ₹5,000/- by the Tribunal is on the lower side. He further argued that no future prospects has been added and the amount awarded towards conventional heads is also on the lower side.

Learned Counsel for the insurer argued that the earning of the deceased was not proved by the claimants, hence, the monthly income has been rightly assessed by the Tribunal. It was further argued that Rs. 5,000/- has been awarded towards loss of love and affection and the same can not be awarded by the Tribunal.

The pleadings of the claimants that deceased was a driver of LMV, was not rebutted. Moreover, it has come on record that even at the time of the accident he was driving the LMV though claimants failed to prove the earning of the deceased and in such circumstances, the Tribunal assessed the monthly income after placing reliance upon the Minimum Wages prevalent at the time of accident.

In the present case the deceased was driver of LMV, hence, he cannot be taken as unskilled labourers therefore, he falls under the semi skilled category. At the time of accident, semi skilled workers were having minimum wages at Rs.7,440/- per month. Accordingly, the monthly earning of the deceased is assessed as Rs. 7,440/-. The same is rounded off to Rs.7,500/- per month.

Having due regard to the decision of the Supreme Court in case ***National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd., 2017 DNJ 1102***, 25% future prospects are to be added. The appellants would entitled to ₹15,000/- for loss of estate, ₹15,000/- for funeral expenses and Rs.40,000/- towards loss of consortium. 1/3rd deduction is to be made for self expenses of deceased.

In consonance with the decision of Supreme Court in case ***Sarla Verma and others Vs. Delhi Transport Corporation and Another. (2009) 6 SCC 121 ,*** multiplier of 14 has rightly been applied.

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

Sr. No.	***Heads***	***Calculations***
(i)	Salary	₹ 7,500/- per month
(ii)	25% added towards future prospects	₹ 7,500+1875=9,375/-
(iii)	1/3rd deduction towards self expenses of the deceased	₹ 9,375-3,125=6,250/-
(iv)	Multiplier of 14 applied	₹ 6,250X12X14= 10,50,000/-
(v)	Loss of estate	₹15,000/-
(vi)	Funeral expenses	₹15,000/-
(vii)	Loss of consortium	₹ 40,000/-
	Total Compensation Awarded (iv)+(v)+(vi)+(vii)	**₹ 11,20,000/-**

The award dated 04.08.2016 is modified to the extent that the amount awarded of ₹ 5,80,000/- is enhanced to ₹ 11,20,000/-.

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.

15.05.2018 **(AVNEESH JHINGAN)**
Riya Grover **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*