

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

FAO-5882-2017 (O&M)

Date of decision:- 30.05.2018

Smt. Sarla Devi and others

...Appellants

Versus

Pargat Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Abhimanyu Batra, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for respondent No. 3.

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AVNEESH JHINGAN, J. (ORAL)

The present appeal has been filed against the award dated 12.04.2017 passed by the Motor Accident Claims Tribunal, Jind (for short the 'Tribunal').

2. The claimants are in appeal for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act') on account of death of Deepak.

3. The brief facts relevant for adjudication of the present appeal are that on 14.09.2015, Deepak, aged 25 years, was driving a truck container bearing registration No. HR-74-4157. The truck container was loaded with new vehicles. On his way, he stopped at Malviya Dhaba, Malhargarh, as he got down from the truck container, he was struck by a harvester (for short the offending vehicle) bearing registration No. PB-11U-6811. As a result of the impact, he fell down and was crushed under the tyres of the offending vehicle. He was taken to CHC, Malhargarh. From there he was referred to District Hospital,

Mandsaur, he succumbed to his injuries on the way. FIR No. 188 dated 14.09.2015 was registered at Police Station Malhargarh.

4. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The monthly earning of the deceased was assessed as ₹ 8,000/- per month. 50% deduction was made for self expenses. Applying a multiplier of 17, the Tribunal awarded a sum of ₹ 8,91,000/- alongwith interest at the rate of 9% per annum. The amount awarded included ₹ 75,000/- under the conventional heads.

5. The learned counsel for the appellants contended that no future prospects have been added and the multiplier of 17 has been wrongly applied.

6. The learned counsel for the insurer argued that the monthly income as well as the amounts awarded under the conventional heads are on the higher side.

7. From the facts of the case, it is evident that the deceased was a driver and he was driving a truck container carrying new vehicles. In such circumstances, it would not be appropriate to assess his income as that of an unskilled labourer. No interference is called for in the monthly income assessed of the deceased, moreso when the insurer was satisfied with the award. The contention of the learned counsel for the appellants that the future prospects should have been awarded deserves acceptance. In view of the decision of the Supreme Court in *National Insurance Company Limited Vs Pranay Sethi and others*, 2017 AIR (SC) 5157, 40% future prospects are to be added. The deceased was admittedly in the age group of 20 to 25 years, multiplier of 18 is to be applied. He was a bachelor, 50% deduction for self expenses has rightly been made.

8. Since the quantum of compensation has been revisited, it would be appropriate that the amounts awarded under the conventional heads are made in consonance with the decision of the Supreme Court in *Pranay Sethi* (supra). The appellants would be entitled to ₹ 15,000/- each for loss of estate and funeral expenses.

9. For the reasons mentioned above, the compensation is re-calculated as under:-

Monthly Income	₹ 8000/-
40% future prospects	₹ 3200/-
	<u>₹ 11,200/-</u>
1/2 deduction for self expenses	₹ 5600/-
	(11200-5600= ₹ 5600/-)
Multiplier of 18	5600 x 18 x 12
	₹ 12,09,600/-
Conventional Heads	₹ 30,000/-
Total:	<u>12,39,600/-</u>

10. The award dated 12.04.2017 is modified to the extent that the amount awarded to the tune of ₹ 8,91,000/- is enhanced to ₹ 12,39,600/-.

11. The appellants 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.

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

(AVNEESH JHINGAN)
JUDGE

30.05.2018

Amodh

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