IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 46 of 2018 (O&M)

DATE OF DECISION : 18.05.2018

Pepsu Road Transport Corporation

....APPELLANT

Versus

Surjit Singh and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Anupam Singla, Advocate,
for the appellant.

Mr. Kamal Narula, Advocate,
for respondent No.1.

* * *

<u>AVNEESH JHINGAN, J.</u> (Oral)

Pepsu Road Transport Corporation has filed the present appeal against the award dated 19.07.2017 passed by the Motor Accident Claims Tribunal, Ferozepur (for short, `the Tribunal').

2. The grievance of the appellant is against the quantum of compensation awarded on account of death of Gurdeep Singh aged 25 years.

3. The brief facts of the case are that a motor vehicular accident took place on 16.11.2016. At about 8.15 PM, Gurdeep Singh was going on a Maruti Swift car bearing registration No. HR-26AJ-6313. On his way, the said car was struck by a bus bearing registration No. PB-04V-2920 (for short, `the offending vehicle'), owned by the appellant. As a result of the

accident, Gurdeep Singh suffered grievous injuries and was declared dead by the doctors of GGS Medical College and Hospital, Faridkot. FIR no. 54 dated 17.11.2016 was registered at Police Station Sadiq.

4. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, `the Act') was filed by the father of the deceased.

5. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of ₹ 15,29,000/- along with interest at the rate of 7.5% per annum. The amount awarded includes ₹ 1,00,000/- for loss of love and affection and ₹ 25,000/- for funeral expenses.

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

7. Learned counsel for the appellant contended that the Tribunal erred in assessing the earning of the deceased as ₹ 6,500/- per month, whereas the minimum wages prevalent at the time of the accident were less. His grievance is that 50% future prospects have been added, instead of 40%. He further contended that no amount for loss of love and affection can be awarded and the amount awarded for funeral expenses is on the higher side.

8. Learned counsel for respondent No.1 – claimant argued that the claimant was able to prove the earning of the deceased, as the Advocate with whom the deceased was working as a Clerk deposed before the Tribunal that the deceased was earning ₹ 6,000/- to ₹ 7,000/- per month. He further contended that no amount has been awarded for loss of estate.

9. The contention raised by learned counsel for the appellant

challenging the monthly earning of the deceased is not well founded. It is not an absolute rule that in all cases, compensation is to be awarded relying upon the minimum wages prevalent at the time of the accident. The appellant was not able to rebut the evidence adduced by the claimant with regard to occupation and earning of the deceased. Even in appeal, no material has been brought on record to rebut the same. In such circumstances, no shadow can be casted upon the findings of the Tribunal assessing the monthly earning of the deceased as ₹ 6,500/-. The contention of learned counsel for the appellant that 40% future prospects should have been added deserves acceptance in view of decisions of the Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and others,*** AIR 2017 (SC) 5157, and in ***Hem Raj Versus Oriental Insurance Company Ltd.,*** 2017 DNJ 1102. The claimants would be entitled to ₹ 15,000/- each for funeral expenses and loss of estate. No amount can be awarded for loss of love and affection.

10. From a perusal of the award, it is evident that while calculating the amount of compensation, there was a calculation error. The monthly earning of the deceased was assessed as ₹ 6,500/-, and ½ deduction of ₹ 3,250/- was made for self expenses. On the balance amount, 50% future prospects were to be added, but instead of that, the amount of ₹ 3,250/- was added. Since the quantum of compensation is being re-visited, the said arithmetic error is also taken care of.

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

Monthly Income	₹ 6,500/-
Add 40% future prospects	₹ 2,600/-
Total	₹ 9,100/-
½ deduction for self expenses	₹ 4,550/-
Dependency	₹ 4,550/-
Applying multiplier of 13	
(4550 x 12 x 18)	₹ 9,82,800/-
Funeral expenses	₹ 15,000/-
Loss of estate	₹ 15,000/-
Total	₹ 10,12,800/-

12. The award dated 19.07.2017 is modified to the extent that the amount of ₹ 15,29,000/- awarded by the Tribunal is reduced to ₹ 10,12,800/-.

13. The claimant would be entitled to the reduced amount along with interest, as awarded by the Tribunal.

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

May 18, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No