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

**FAO No.4600 of 2018 (O&M)
Date of Decision: 05.12.2018**

Baskari @ Basgari and others

Appellants

Versus

Pahar Singh and others

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Chetan Kapoor, Advocate for
Mr. Ashish Gupta, Advocate
for the appellants.

AVNEESH JHINGAN, J (Oral):

The award dated 11.12.2017 passed by the Motor Accident Claims Tribunal, Mewat [hereinafter referred to as 'the Tribunal'] has been assailed by legal heirs of Haseen @ Haseen Mohammed for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The brief facts of the case are that on 04.06.2016, Haseen @ Haseen Mohammed (deceased), cleaner alongwith driver Jakir Hussain was going from Pipariya to Delhi on a truck bearing registration No. HR-73-2755. When they reached near Vaishnav Dhaba near petrol pump, Baregaon Highway, in the area of Police

Station Murar, District Gwalior, a vehicle bearing registration No. MP-07HB-7707 [hereinafter referred to as 'offending vehicle'], came from the backside and was being driven in a rash and negligent manner, it overtook the truck of Jakir Hussain and suddenly applied brakes, thereafter, Jakir Hussain also applied brakes. As a result of the impact, Haseen, who was sitting in the cabin of the truck suffered injuries. He was taken to General Hospital, Lashkar (Gwalior) where he died during the treatment. FIR No. 366, dated 04.06.2016 was registered at Police Station Murar, District Gwalior.

A claim petition under Section 166 of the Act was filed by the parents and four minor brothers and sisters of the deceased. The Tribunal held that accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

It was claimed before the Tribunal that deceased was 19 years old and working as a cleaner, and his monthly earning was ₹15,000/-. But the claimants failed to substantiate the monthly earning of the deceased, the Tribunal relied upon the minimum wages prevalent in the State at the time of accident and quantified the compensation by taking monthly income of an un-skilled labourer i.e. ₹7,621/-, which was rounded off to ₹7,650/-. 40% future prospects were awarded, multiplier of '18' was applied and ½ deduction for self expenses was made. ₹15,000/- each was awarded for funeral expenses and loss of estate. The Tribunal awarded a

sum of ₹11,86,680/- alongwith interest @ 7% per annum. The present appeal has been filed seeking enhancement of compensation.

Learned counsel for the appellants contends that the deceased was survived by six dependents and hence the deduction made by the Tribunal is inappropriate and the amount awarded is on the lower side.

The deceased was 19 years of age. He was survived by parents i.e. father, aged 45 years and mother, aged 40 years. No quantum of compensation is sufficient to compensate the parents for loss of their child, but the Tribunals and Courts are duty bound to award just and equitable compensation. In cases where the claimants failed to substantiate the monthly earning of the deceased, the safest yardstick is to rely upon minimum wages prevalent in the State at the time of accident, which is rightly done by the Tribunal.

In the present case, after relying upon the minimum wages, 40% future prospects are awarded in consonance with the decisions of the Supreme Court in **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.**

As per the decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21**, multiplier of '18' had been applied and ½ deduction for self expenses had rightly been made.

The amounts under the conventional heads have been awarded in terms of decision of the Supreme Court in **Pranay Sethi's** case (supra).

No case is made out for enhancement of compensation.

The appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

December 05th, 2018
pankaj baweja

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