

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6955 of 2018 (O&M)

Date of decision: 28.11.2018

New India Assurance Co. Ltd.

...Appellant

Versus

Maya and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Paul S. Saini, Advocate
for the appellant.

Mr. Lokesh Sharma, Advocate
for respondents No. 1 to 4.

AVNEESH JHINGAN, J. (ORAL)

The Insurer of Bus bearing registration No. HR-46-D-7619 (hereinafter as 'offending vehicle') is in appeal against award dated 17.03.2018 passed by Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal').

The claimants have been arrayed as respondents No. 1 to 4 in the appeal. The driver and owner of the offending vehicle are respondents No. 5 and 6 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 20.10.2017, Ashok along with Chhater Pal was going on Motorcycle bearing registration No. HR-12-AA-9536. When they reached near Dalal Bhawan, Gohana road, a rashly and negligently driven offending vehicle rammed into the motorcycle. Due to the impact both the occupants of the motor cycle received grievous injuries and they were taken to Post Graduate Institute of Medical Sciences, Rohtak where both of them were declared brought dead. FIR No. 725 dated 20.10.2017 under Sections 279,

337 and 304-A IPC was registered at Police Station City Rohtak.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the mother, two brothers and sister of Ashok. The claim petition was numbered as MACT case No. 6 of 2018. The Tribunal after considering the facts and appreciating evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner driver and insurer of the offending vehicle were held jointly and severally to pay compensation. The Tribunal awarded a sum of ₹19,69,280/- along with interest @ 7.5% per annum. The amount awarded included ₹ 70,000/- under the conventional heads.

The age of the deceased at the time of accident was 28 years. His income was assessed as ₹ 8400/- per month. 40% future prospects were awarded, multiplier of 17 was applied and 1/4th deduction was made for self-expenses.

Heard learned counsel for the parties and perused the paper-book.

Learned counsel for the appellant argued that the Tribunal erred in making 1/4th deduction for self-expenses as the deceased was unmarried. He contended that there is an error in the award. PW-3/Maya was the mother of the deceased and the Tribunal has referred that she deposed that her husband Ashok was working as a sweeper in Municipal Corporation, Rohtak. Thus, no amount for loss of consortium should be granted.

Learned counsel for the respondents No. 1 to 4 could not dispute the fact that the deceased was unmarried.

The contention raised by learned counsel for the appellant deserves acceptance. In view of the decision of the Apex Court in

“Smt. Sarla Verma and Others Versus Delhi Transport Corp. and Anr:
(2009) 6 SCC 121, ½ deduction for self-expenses is to be made as
deceased was a bachelor.

Since the quantum of compensation is being re-visited, the
conventional heads are made in consonance with decision of Supreme Court
in **National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017**
(4) RCR (Civil) 1009, no loss of consortium is granted.

The compensation is re-calculated as under:-

Monthly income	₹ 8400/-
40% Future Prospects	₹3360/-
Total	₹11,760/-
½ deduction for self expenses	₹5880/-
Monthly Dependancy	₹5880/-
Applying multiplier of 17	₹ 11,99,520/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
Total	₹ 12,29,520/-

Award dated 17.03.2018 is modified to the extent that amount
awarded of ₹19,69,280/- is reduced to ₹ 12,29,520/- The appellant shall
deposit the amount along with interest as awarded by the Tribunal within
six weeks from today.

Appeal is disposed of in the aforesaid terms.

November 28, 2018

Poonam (II)

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No