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

**FAO No.1526 of 2004
Date of Decision: 20.03.2019**

Surjit Singh and another

Appellants

Versus

Ranjit Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Naveen Sharma, Advocate for
Mr. Vijay Lath, Advocate
for the appellants.

Mr. Vijay Kumar Garg, Advocate
for the respondent-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 05.12.2003 passed by the Motor Accident Claims Tribunal, Rupnagar [for brevity 'the Tribunal'] has been assailed by parents of Rajwant Singh (deceased), seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. The Oriental Insurance Company Ltd.) of Truck bearing registration No. PAT-8989 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The record of this appeal was burnt and from the

salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The facts emanating from the record are that Rajwant Singh alongwith Surjit Singh had come to village Bharatgarh for taking Bajri on truck bearing registration No. PAN-5145 which was being driven by one Bhupi. On their way, there was some mechanical defect in their truck, a mechanic was repairing the Truck and Rajwant Singh was standing near the truck. At about 05:30 P.M., the offending vehicle struck against the stationary truck which was parked on the extreme left side of the road. As a result of the impact, Rajwant Singh received grievous injuries and was taken to Civil Hospital, Ropar where he succumbed to the injuries.

In the claim proceeding, claimants failed to prove the occupation and earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹2,100/- per month; multiplier of 12 was applied considering the age of mother of the deceased and 1/3rd deduction for self-expenses was made. The Tribunal awarded a sum of ₹2,36,600/- alongwith interest @ 9% per annum. The amount awarded included ₹15,000/- for funeral expenses and ₹20,000/- for pain and mental shock.

Learned counsel for the appellants contends that no future prospects have been awarded and multiplier of '12' has wrongly been applied instead of '18'. His grievance is that no

amount is awarded for loss of estate.

Learned counsel for the insurer argues that 1/3rd deduction for self-expenses has wrongly been made instead of ½ as the deceased was bachelor at the time of accident. He further argues that amounts awarded under the conventional heads are on higher side.

In consonance with the decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21**, ½ deduction for self-expenses is to be made as the deceased was bachelor at the time of accident.

Having due regard to 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**, 40% future prospects are awarded, as the deceased was 18 years old and falls under the category of self-employed or a person having fixed wages.

The Tribunal erred in applying multiplier of '12' by considering the age of mother of the deceased. As per decision of the Supreme Court in **Sarla Verma's** case (supra), multiplier of '18' is applied as deceased was 18 years of age at time of accident.

The issue with regard to applying multiplier by considering the age of deceased and not by age of claimants is

no longer res-integra. The Supreme Court in case of **Sube Singh and another vs. Shyam Singh (Dead) and others;** **(2018) 3 SCC 18** held as under:

“On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e. 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased. The legal position, however, is no more res integra. In the case of Munna Lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants.”

(emphasis supplied)

As the quantum of compensation is being re-visited, the amounts under the conventional heads are awarded as per decision of the Supreme Court in **Pranay Sethi's case** (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount is awarded for pain and mental shock.

In view of above discussion, the compensation is re-calculated as under:-

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	2,100/-
40 % Future Prospects	840/-
Sub Total	2,940/-
½ deduction for self expenses	1,470/-
Monthly Dependency	1,470/-
Annual Dependency	17,640/-
Applying multiplier of '18'	3,17,520/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Grand Total	3,47,520/-

The award dated 05.12.2003 is modified to the extent that amount of ₹2,36,600/- awarded by the Tribunal is enhanced to ₹3,47,520/-.

The claimants shall be entitled to the enhanced amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

March 20, 2019
pankaj baweja

1. Whether speaking/ reasoned

:

Yes

2. Whether reportable

:

Yes