IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4121 of 2004 (O&M)
DECIDED ON: FEBRUARY 28, 2019

RANJIT KAUR AND ANOTHER

.....APPELLANTS

VERSUS

HOSHIAR SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Govind Rana, Advocate for
Mr. Harkesh Manuja, Advocate
for the appellants.

None for the respondents.

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AVNEESH JHINGAN J. (ORAL)

The award dated 23.01.2002 passed by the Motor Accident Claims Tribunal, Ludhiana (for brevity 'the Tribunal') has been assailed by the mother and sister of Surinder Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The driver, owner of bus bearing registration No. PB-10-U-8697 (hereinafter referred to as 'offending vehicle), and insurer (i.e. Oriental Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents no. 1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that a motor vehicular accident took place on 30.11.1997. The accident proved fatal for Surinder Singh. FIR was registered at Police Station Dehlon, Ludhiana.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to rash and negligent driving of the offending vehicle. The Tribunal awarded compensation of ₹1,31,600/- alongwith interest @ 9% per annum. The amount awarded included ₹2000/- for funeral expenses. The insurer was directed to pay the compensation at first instance and then recover it from the driver and owner.

In the claim petition, it was pleaded that the deceased was 22 years old at the time of accident. He was having workshop of scooter repair and his monthly earning was pleaded as ₹7000-₹8000/-, albeit the claimants failed to prove the monthly earning of the deceased. The Tribunal assessed the monthly earning of the deceased as ₹1800/-; 1/3rd deduction for self-expenses was made and multiplier of '9' was applied considering the age of the mother of the deceased.

Heard learned counsel for the appellants and perused the paper book.

The issues which arise in the present appeal are that the no future prospects have been awarded and the Tribunal erred in making 1/3rd deduction for self-expenses, as the deceased was a bachelor. Further contends that the Tribunal has wrongly applied the multiplier of '9' considering the age of the mother of the deceased. His grievance is that no amount has been awarded for loss of estate.

Having due regard to the decisions of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi and others;*** ***2017 (4) RCR (Civil) 1009*** and ***Hem Raj vs. Oriental Insurance Company* Ltd *2018 (2) PLR 480;*** 40% future prospects are awarded, as the deceased was 22 years old at the time of accident and is covered in the category of self employed or having fixed wages.

In consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra), claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate.

The Tribunal has applied multiplier considering the age of the mother of the deceased.

The issue regarding application of multiplier considering the age of the deceased and not as per age of the claimants is no longer *res-integra.* The Supreme Court in the case of ***Sube Singh and another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18*** has 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)*

Since the deceased was 22 years of age, multiplier of '18' is to be applied considering the age of the deceased, in consonance with the decision of the Supreme Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21***.

As the quantum of compensation is being revisited, it would be appropriate that the deduction for self-expenses is to be made in consonance with the decision of the Supreme Court in ***Smt. Sarla Verma's*** case (supra); 1/2 deduction for self-expenses is made, as the deceased was bachelor.

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

	Head	**Compensation awarded**
(i)	Monthly income	₹ 1800/- per month
(ii)	Future prospects at 40%	₹ 720/-
(iii)	Total Income	₹ 2520/- per month
(iv)	Deduction of personal expenses	₹ 1260/- (i.e. 1/2 of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	1260x12x18= ₹2,72,160/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹3,02,160/-

The award dated 23.01.2002 is modified to the extent that amount of ₹1,31,600/- awarded by the Tribunal is enhanced to ₹3,02,160/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed.

(AVNEESH JHINGAN)
JUDGE

FEBRUARY 28, 2019
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Whether speaking/reasoned: Yes
Whether reportable : Yes