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

**FAO No. 940 of 2003
DECIDED ON: FEBRUARY 14, 2019**

PARKASH @ OM PARKASH AND ANOTHER

.....APPELLANTS

VERSUS

GURCHARAN SINGH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arun Singhal, Advocate for
Mr. Ashwani Gaur, Advocate
for the appellants.

In spite of service none appears for respondent No.2.

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AVNEESH JHINGAN J. (ORAL)

The award dated 26.11.2002 passed by the Motor Accident Claims Tribunal, Hisar (for brevity 'the Tribunal') has been assailed by the legal heirs of Ravi seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The parents of Ravi are the appellants. The driver and owner (i.e. Pepsu Road Transport Corporation, Patiala) of bus bearing registration No. PB-11-E-9605 (hereinafter referred to as 'offending vehicle'); have been arrayed as respondents no. 1 and 2 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 06.07.1999, Ravi was going on foot on the extreme left side of the road adjoining to Sabji Mandi Barwala, where he was hit by the offending vehicle. As a result of the impact, he fell down and was run over by the offending vehicle. He was shifted to Dr. Anant Ram Janta Hospital, Barwala where he died. FIR No. 177, dated 06.07.1999 was registered.

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 driver and owner of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded compensation of ₹1,53,200/- alongwith interest @ 9% per annum. The amount awarded included ₹2000/- under the conventional heads.

In the claim petition, it was pleaded that the deceased was a vegetable and fruit seller and was earning ₹5000/- per month. But the claimants failed to substantiate the occupation and earning of the deceased. The Tribunal assessed the loss of income of the deceased as ₹1800/- per month and multiplier of 16 was applied keeping in view that the deceased was in the age group of 21 to 25. A split deduction i.e. 1/3rd for first five years and 2/3rd for the next 11 years was made.

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

Learned counsel for the appellants contends that the Tribunal wrongly assessed the monthly income of the deceased as ₹1800/-, as the minimum wages for an unskilled labourer prevalent in the State at the time of accident were ₹1850/-. He further contends that the Tribunal erred in applying the multiplier of 16 instead of 18, as the deceased was in the age group of 21 to 25. His grievance is that no future prospects have been awarded and the amounts awarded under the conventional heads are on lower side. He also challenges the split deduction made for self-expenses.

In cases where the claimants failed to prove the occupation and earning of the deceased, the safest yardstick would be to rely upon the minimum wages prevalent in the State at the time of accident. The minimum wages at the relevant time in the State of Haryana for an unskilled labourer were ₹1850/- per month.

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 below 40 years and is covered in the category of self employed or having fixed wages.

In consonance with the decision of the Supreme Court in ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another; (2009) 6 SCC 121,*** multiplier of 18 is to be applied, as the deceased falls in the age group of 21 to 25.

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 Supreme Court in ***Sarla Verma's*** case (supra) has given the table with regard to the deduction for self-expenses and as per the said table in case of a Bachelor, 1/2 deduction for self-expenses is to be made. There is no occasion to apply split deduction for self expenses. The compensation is to be calculated by making 1/2 deduction for self-expenses.

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

	Head	**Compensation awarded**
(i)	Monthly Income	₹ 1850/- per month
(ii)	Future prospects at 40%	₹ 740/- per month
(iii)	Total Income	₹ 2590/- per month
(iv)	Deduction of personal expenses	₹ 1295/- (i.e. 1/2 of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	1295x12x18= ₹2,79,720/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹3,09,720/-

The award dated 26.11.2002 is modified to the extent that amount of ₹1,53,200/- awarded by the Tribunal is enhanced to ₹3,09,720/-. 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 in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

FEBRUARY 14, 2019
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Whether speaking/reasoned: ***Yes / No***
Whether reportable : ***Yes / No***