

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1629 of 2006 (O&M)

Date of Decision: 01.05.2019

Sant Ram Singh and another

.....Appellants

Versus

Rakesh Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.C. Chhabbra, Advocate
for the appellants.

Mr. S.P. Arora, Advocate
for insurance company.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 6.1.2006 passed by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal') passed in MACT Case No.40-DJ under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The appellants are parents of deceased-Surinder Singh.

Driver, owner and insurer (i.e. The Oriental Insurance Company) of Tractor bearing registration No.PB-61-1843 (for short 'the offending vehicle') have been arrayed as respondents No.1 to 3.

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 factum of accident is not disputed by the parties. A motor vehicular accident took place on 17.2.2002 (though wrongly mentioned in second para of typed copy as 17.2.2003). The accident proved fatal for Surinder Singh aged 18 years. He was a student of Class-X. FIR No. 30 dated 18.2.2002 was registered at Police Station Sadar Jalalabad. The

accident was result of 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 compensation.

In the claim proceedings it was claimed that the deceased was student of Class-X and was running a karyana shop. The claimants failed to prove the occupation and earning of the deceased. The Tribunal awarded a lump-sum amount of ₹ 3,00,000/- along with interest at the rate of 6% per annum.

Learned counsel for the appellants contends that the Tribunal erred in awarding lump-sum amount and not applying the multiplier method. He contends that the deceased was student of Class-X and should be treated atleast as unskilled labourer.

Learned counsel for the insurer argues that the deceased was merely a student and was not earning anything. There was no proof of his earning and hence, the lump-sum amount was rightly awarded by the Tribunal.

The contention raised by learned counsel for the appellants deserves acceptance.

It is settled position of law that in order to award just and equitable compensation multiplier method should be adopted. The deceased was 18 years of age and was student of Class-X. Though there is nothing on record with regard to his monthly earning, yet in order to arrive at just and equitable compensation and having clue from the minimum wages prevalent at the relevant time, the monthly income of deceased is assessed as ₹ 2300/-. As per the decisions of the Supreme Court in National

Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC

480 40% future prospects are awarded.

The deceased was 18 years of age and un-married and as per the decision of the Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21, ½ deduction is made for self-expenses and multiplier of 18 is applied.

As per the decision of the Supreme Court in **Pranay Sethi's case (supra)**, ₹ 15,000/- each is awarded to the claimants for funeral expenses and for loss of estate.

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

Sr. No.	Particulars	Amount awarded (₹)
1.	Monthly income	2300/-
2.	40% future prospects	920/-
3.	½ deduction for self-expenses	1610/-
4.	Applying multiplier of 18 (1610x18x12)	3,47,760/-
5.	Conventional heads	30,000/-
	Total	3,77,760/-

The award dated 6.1.2006 is modified to the extent that amount awarded of ₹ 3,00,000/- by the Tribunal is enhanced to ₹ 3,77,760/-. The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

01.05.2019
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Whether speaking/reasoned Yes
Whether Reportable: No