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

**FAO No. 5166 of 2010
DECIDED ON: APRIL 08, 2019**

**SAVITA AND OTHERS**

**APPELLANTS**

**VERSUS**

**MANJIT SINGH AND OTHERS**

**RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Ram Pal Verma, Advocate
for the appellants.

Mr. R.C. Gupta, Advocate and
Ms. Manju Sillay, Advocate
for respondent No.3-Insurance Company.

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**AVNEESH JHINGAN, J (Oral):**

The award dated 16.10.2009 passed by the Motor Accident Claims Tribunal, Sonepat (for brevity 'the Tribunal') has been assailed in appeal by the widow, two minor children and parents of Bijender (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, registered owner and insurer (i.e. United India Insurance Company Ltd.) of trolla/truck bearing registration No. HR-37-B-3329 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts emanating from the record are that on 30.05.2007 the driver of the offending vehicle parked the offending vehicle without any indicators on the flyover in front of Bhagat Puranmal Ashram on main G.T. Road in the area of Police Station Kundli. Bijender was driving a motorcycle, as result of negligent parking of the offending vehicle, the motorcycle struck against the back side of the offending vehicle. Bijender sustained injuries and ultimately succumbed to the injuries. FIR No. 109, dated 30.05.2007 was registered at Police Station Kundli.

A claim petition was filed under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the negligent parking of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings it was pleaded that the deceased was 28 years old at the time of accident and was carrying on the business of supply of building material. His monthly earning was claimed to be ₹20,000/- per month. The claimants failed to prove the occupation and earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹3200/-. The Tribunal, while relying upon the decision of the Supreme Court in ***U.P. State Road Transport Corporation and others vs. Trilok Chand and others; (1996) 4 SCC 362;*** and by applying the unit method, awarded a sum of ₹5,01,020/- alongwith interest @7.5% per annum. The amount awarded included ₹9500/- under the conventional heads.

Heard learned counsel for the parties and perused the record.

Learned counsel for the appellants argues that the Tribunal erred in applying the unit method instead of applying multiplier method. He submits that the amounts under the conventional heads and future prospects be awarded as per 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***. He further submits that deduction for self-expenses and multiplier be made as per the decision of Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.***

Learned counsel for the insurer while defending the award resisted any further enhancement.

The Supreme Court in the cases of Sarla Verma's case (supra) held that multiplier method be adopted for awarding just and equitable compensation.

There is no dispute between the parties with regard to the income assessed by the Tribunal.

Having due regard to the decisions of the Supreme Court in ***Pranay Sethi's*** case (supra) and ***Hem Raj's*** case (supra); 40% future prospects are awarded, as the deceased was below 40 years of age and fell in category of self-employed or having fixed wages.

As per the decision of Supreme Court in ***Sarla Verma's*** case (supra); $1/4^{th}$ deduction for self-expenses is made, as the deceased was survived by five dependants and multiplier of '17' is applied, as the deceased was 28 years old at the time of accident.

The amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in **Pranay Sethi's** case (supra). The claimants are entitled to ₹15000/- each for funeral expenses and for loss of estate. An amount of ₹40,000/- is awarded for loss of consortium to the widow.

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

| | **Head** | **Compensation awarded** |
|---|---|---|
| (i) | Monthly Income | ₹ 3200/- per month |
| (ii) | Future prospects at 40% | ₹ 1280/- per month |
| (iii) | Total Income | ₹ 4480/- per month |
| (iv) | Deduction of personal expenses | ₹ 1120/- (i.e. 1/4 of total income) |
| (v) | Multiplier | 17 (as per age of deceased) |
| (vi) | Loss of income | 3360x12x17= ₹6,85,440/- |
| (vii) | Funeral expenses | ₹15,000/- |
| (viii) | Loss of estate | ₹15,000/- |
| (ix) | Loss of consortium | ₹40,000/- |
| | Total Compensation awarded | ₹7,55,440/- |

The award dated 16.10.2009 is modified to the extent that amount of ₹5,01,020/- awarded by the Tribunal is enhanced to ₹7,55,440/-.

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 allowed.

**(AVNEESH JHINGAN)**
**JUDGE**

**APRIL 08, 2019**
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***Whether speaking/reasoned*** ***Yes/No***
***Whether reportable*** ***Yes/No***