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

**FAO No.6797 of 2010 (O&M)
Date of Decision: 27.02.2019**

Sada Rani and another

Appellants

Versus

Gurjinder Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Neeru Thakur, Advocate for
Mr. S.K. Yadav, Advocate
for the appellants.

Mr. R.N. Singal, Advocate
for respondent No.3.

Mr. D.K. Dogra, Advocate
for respondent No.5.

AVNEESH JHINGAN, J (Oral):

The award dated 16.04.2008 passed by the Motor Accident Claims Tribunal, Gurgaon [for brevity 'the Tribunal'] has been assailed by parents of Ram Parshad (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner, insurer (i.e. National Insurance Company Ltd.) of Tralla bearing registration No. HR-55D-4014 [hereinafter referred to as 'tralla'], owner and insurer (i.e. New India

Insurance Company Ltd.) of Tata 709 vehicle bearing registration No. HR-38D-1097 [hereinafter referred to as 'Tata 709'] have been arrayed as respondents No.1 to 5 respectively. Wife of the deceased has been arrayed as proforma respondent No.6 in the appeal.

Brief facts of the case are that on 21/22-06-2006, Umesh was driving Tata 709 which was loaded with gas cylinders. Ram Parshad was sitting in the Cabin of the said vehicle. When they reached near Village Sherla on Jhajjar-Rohtak road, a Tralla came from the opposite side and struck against Tata 709. The accident took place due to the contributory negligence of both the drivers. As a result of the impact, Ram Parshad, aged 21 years sustained multiple injuries and died at the spot. FIR No. 84, dated 22.06.2006 was registered at Police Station Beri on the statement of Arjun Singh.

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 contributory negligence of both the vehicles. The owner, driver and insurer of both the vehicles were held jointly and severally liable to pay the compensation in the ratio of 50:50.

In the claim petition, the Tribunal accepted the plea of the claimants that the deceased was earning ₹3,000/- per month; 1/3rd deduction for self-expenses was made and multiplier of '16' was applied. The Tribunal awarded ₹4,10,000/- alongwith interest @ 9% per annum. The amount awarded included ₹15,000/- for loss of

consortium and ₹11,000/- for funeral expenses.

Learned counsel for the appellants contends that no future prospects have been awarded and multiplier of '16' has wrongly been applied as the deceased was 21 years old at the time of accident. She further contends that the amounts awarded under the conventional heads are on the lower side.

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

The contentions raised by learned counsel for the appellants deserve acceptance. 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 below 40 years of age and would come under the category of self-employed or a person having fixed wages. The claimants are also entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- are awarded to the widow for loss of consortium.

There is no dispute between the parties with regard to age of the deceased. In consonance with the decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21**, multiplier of '18' is to be applied.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	3,000/-
40% Future Prospects	(+) 1,200/-
Sub Total	4,200/-
1/3 rd deduction for self expenses	(-) 1,400/-
Monthly Dependency	2,800/-
Annual Dependency	33,600/-
Applying multiplier of '18'	6,04,800/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Loss of consortium to the widow	40,000/-
Grand Total	6,74,800/-

The award dated 16.04.2008 is modified to the extent that amount of ₹4,10,000/- awarded by the Tribunal is enhanced to ₹6,74,800/-.

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

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

February 27, 2019
pankaj baweja

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes