

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO No. 3109 of 2012 (O&M)

Date of Decision: 06.02.2019

Baljeet Singh and another

.....Appellants

**Versus**

Anand and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajender Singh Malik, Advocate  
for the appellants.

Mr. Nikhil Sabharwal, Advocate  
for respondent No.3.

**AVNEESH JHINGAN, J.(oral)**

Legal heirs of Jitender have filed the present appeal against award dated 24.2.2012 passed by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal'). The appeal is for enhancement of compensation awarded by the Tribunal in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act').

Appellants are the parents of deceased-Jitender. Respondents No.1 and 2 are driver and owner of Bus bearing registration No.HR-69-A-2652 (for short 'offending vehicle') and respondent No.3 ( i.e. Bajaj Allianz General Insurance Company) is the insurer of the offending vehicle.

The brief facts necessary for adjudication of the present appeal are that on 9.2.2011 Jitender along with his father and sister was standing at the back gate of the bus stand, at that time, Jitender was run over by the offending vehicle and both his legs were crushed. He was taken to

Government Hospital, Sonipat from where he was referred to Jaipur Golden Hospital, where he succumbed to injuries. FIR No. 64 dated 9.2.2011 was registered at Police Station Civil Lines, Sonipat.

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 rash and negligent driving 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 petition filed by the appellants, it was proved that he was a matriculate; his age was 19 years and a student. The Tribunal assessed the monthly earning as ₹ 3600/-, made ½ deduction for self-expenses and applied multiplier of 9 considering the age of the claimants. A sum of ₹ 2,26,629/- alongwith interest at the rate of 7.5% per annum was awarded by the Tribunal. The amount awarded included ₹ 5000/- for funeral expenses, ₹ 7500/- for loss of estate and ₹ 19,729/- for medical expenses.

Learned counsel for the appellants contends that the Tribunal erred in assessing the monthly income of the deceased as ₹ 3600/-. He was a matriculate, atleast minimum wages prevailing in the State for an unskilled labourer should have been considered. He further contends that multiplier of 9 has wrongly been applied considering the age of the claimants. Further grievance is that the amount awarded under conventional heads are on the lower side and no amount has been awarded for future prospects.

Learned counsel for the insurer defends the award and resists any further enhancement. He further argues that the deceased was only a student and his monthly income was not proved.

The fact that the deceased was matriculate and his age was 19

years at the time of accident was duly proved before the Tribunal.

The contention raised by learned counsel for the appellants that at least minimum wages prevalent for unskilled labourer should have been applied, deserves acceptance. The minimum wages in the State of Haryana at the time of accident was ₹4500/- and the same are considered for calculating the compensation.

Having due regard to the decisions of 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**, as the deceased was below 40 years of age and would fall within the category of self-employed and having fixed salary, 40% future prospects are awarded. The claimants are also entitled to ₹ 15,000/- each for funeral expenses and loss of estate.

As deceased was 19 years old at the time of accident, multiplier of 18 is to be applied as per decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21**. The issue regarding application of multiplier considering the age of the deceased and not the age of 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.”*

In view of above discussion, the compensation is recalculated as under:

| Sr. No. | Particulars                                                                | Amount awarded |
|---------|----------------------------------------------------------------------------|----------------|
| 1.      | Monthly income                                                             | ₹ 4500/-       |
| 2.      | 40% future prospects                                                       | ₹ 1800/-       |
| 3.      | ½ deduction for self-expenses                                              | ₹ 3150/-       |
| 4.      | Applying multiplier of 18                                                  | ₹ 6,80,400/-   |
| 5.      | Conventional heads ₹ 15,000/- each for funeral expenses and loss of estate | ₹ 30,000/-     |
| 6.      | Medical expenses as already awarded by Tribunal                            | ₹ 19,720/-     |
| 7.      | Total                                                                      | ₹ 7,30,129/-   |

The award dated 24.2.2012 is modified to the extent that the amount awarded by the Tribunal of ₹ 2,26,629/- is enhanced to ₹7,30,129/-. The claimants shall be entitled to enhanced amount along with interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)  
JUDGE

06.02.2019  
reema/pankaj

Whether speaking/reasoned Yes/No  
Whether Reportable: Yes/No