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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

****

FAO No.10135 of 2014
Date of Decision: 06.02.2019

United India Insurance Company Ltd.

Appellant

Versus

Taro Devi and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.S. Sidhu, Advocate
for the appellant.

Mr. A.S. Salar, Advocate
for the respondents.

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<u>AVNEESH JHINGAN, J (Oral):</u>

The insurer of Maruti Car bearing registration No. HP-15-9772 [hereinafter referred to as 'offending vehicle'] is in appeal against award dated 02.09.2014 passed by the Motor Accident Claims Tribunal, Panchkula [for brevity 'the Tribunal']. The grievance raised in the appeal is regarding quantum of compensation of ₹10,85,000/- awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The claimants in the appeal are respondents No.1 to 3 and driver-cum-owner is arrayed as respondent No.4.

Brief facts of the case are that a motor vehicular accident occurred on 12.05.2013. The said accident proved fatal for Baldev Kumar. The vehicles involved in the accident were motorcycle bearing registration No. HR-49C-3293 and the offending vehicle. FIR No.50, dated 13.05.2013 was registered at Police Station Kalka.

There is no dispute to the fact that the accident was caused due to the rash and negligent driving of the offending vehicle as well as joint & several liability of the owner-cum-driver and insurer of the offending vehicle to pay the compensation. The parties have also not disputed that deceased was 28 years old at the time of accident. Further, there is no challenge to the monthly income of the deceased assessed by the Tribunal as ₹5,000/- and 1/3rd deduction made for self-expenses.

The issues arising in appeal are with regard to 50% future prospects awarded by the Tribunal; multiplier applied of '16' instead of '17' and amounts awarded under the conventional heads.

The issue regarding awarding of future prospects has been authoritatively decided by the Supreme Court in cases of ***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.*** In cases, where the deceased is below 40 years of age and falls within the category of self-employed or having fixed income, 40% future prospects are to be awarded. 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.

Having due regard to the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** multiplier of 17 is to be applied as the deceased was in the age group of 26-30.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	5,000/-
40% Future Prospects	2,000/-
Sub Total	7,000/-
1/3rd deduction for self expenses	2,333/-
Monthly Dependency	4,667/-
Annual Dependency	56,004/-
Applying multiplier of '17'	**9,52,068/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**10,22,068/-**

The award dated 02.09.2014 is modified to the extent that amount of ₹10,85,000/- awarded by the Tribunal is reduced to ₹10,22,068/-.

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

Vide order dated 16.12.2014, the appellant was directed to deposit the entire amount and the Tribunal was to release 70% of the said amount. The balance amount be released to the claimants alongwith interest as per this order and in case of any excess, the same be refunded to the appellant on moving an application regarding the same.

The appeal is disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

February 06, 2019
pankaj baweja

1. Whether speaking/reasoned : **Yes**/ No
2. Whether reportable : **Yes**/ No