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

**FAO No. 100 of 2015
DECIDED ON: JANUARY 14, 2019**

NARINDER KAUR AND ANOTHER

.....APPELLANTS

VERSUS

PARDEEP GOYAL AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Param Preet Singh Brar, Advocate
for the appellants.

Mr. Satpal Singh, Advocate for
Mr. BPS Virk, Advocate
for respondents No.1 and 2.

Mr. Sandeep Suri, Advocate
for respondent No.3.

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AVNEESH JHINGAN J. (ORAL)

The legal heirs of Gurlal Singh (deceased) are in appeal against the award dated 15.09.2014 passed by the Motor Accident Claims Tribunal, Kaithal (for brevity 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

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The driver of Mahindra Pick-up bearing registration No. HR-64-7074 (hereinafter referred to as 'offending vehicle'); owner and insurer (i.e. ICICI Lombard General Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents no. 1 to 3 respectively in the appeal. It is clarified that in the memo of parties respondent No.2 has been wrongly mentioned as driver instead of owner of the offending vehicle.

The facts emanating from the record are that on 29.12.2012, Gurlal Singh alongwith his cousin brother Jitender Singh was going from village Badanpur to Samana on motorcycle bearing registration No. PB-11-AH-7742. On their way, the motorcycle was struck by a rashly and negligently driven offending vehicle. As a result of the impact Gurlal Singh sustained grievous injuries and died at the spot. FIR No. 148, dated 29.12.2012 was registered at Police Station Guhla.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, awarded compensation of ₹7,65,200/- alongwith interest @ 7.5% per annum. The amount awarded included ₹20,000/- for funeral expenses.

In the claim petition, it was pleaded that the deceased was 21 years old at the time of accident and was earning ₹30,000/- per month from agricultural and dairy farming works. But the claimants failed to substantiate the occupation and earning of the deceased. The Tribunal assessed the monthly income of the deceased as ₹4600/- per month. 1/2 deduction for self-expenses was made and multiplier of 18 was applied.

Heard learned counsel for the parties and perused the relevant

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documents produced by them.

Learned counsel for the appellants contends that the Tribunal erred in assessing the monthly income of the deceased as ₹4600/-, which is even less than the minimum wages prevalent in the State of Haryana for an unskilled labourer. His grievance is that no amount has been awarded for loss of estate.

Learned counsel for the insurer defends the award and resisted any further enhancement. He argues that 50% future prospects have wrongly been awarded by the Tribunal instead of 40%, as the deceased was 21 years old at the time of accident. His grievance is that the amount awarded for funeral expenses is on the higher side.

The occupation and earning of the deceased was not supported by any evidence by claimants. In such circumstances, the safest yardstick would be to rely upon the minimum wages prevalent in the State at the time of accident. The minimum wages at the time of accident in the State of Haryana for an unskilled labourer were ₹5000/- per month.

Having due regard to the decisions of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi and others;*** ***2017 (4) RCR (Civil) 1009*** and ***Hem Raj vs. Oriental Insurance Company*** Ltd ***2018 (2) PLR 480;*** 40% future prospects are awarded instead of 50%. Claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate.

It is pertinent to note that there is no dispute between the parties with regard to deduction made and multiplier applied.

In view of afore-said discussion, the compensation is re-calculated as under:

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	Head	**Compensation awarded**
(i)	Income	₹ 5000/- per month
(ii)	Future prospects at 40%	₹ 2000/- per month
(iii)	Total Income	₹ 7000/- per month
(iv)	Deduction of personal expenses	₹3500/- (i.e. 1/2nd of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	3500x12x18= ₹7,56,000/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹7,86,000/-

The award dated 15.09.2014 is modified to the extent that amount of ₹7,65,200/- awarded by the Tribunal is enhanced to ₹7,86,000/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is partly allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

JANUARY 14, 2019
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No

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