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

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**FAO No.1716 of 2014 with
XOBJC No.74-CII of 2014
Date of Decision: 20.02.2019**

Shyam Lal and others

Appellants

Versus

Anand and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ram Kumar Saini, Advocate
for the appellants.

None for respondent No.3.

Mr. Saurabh Bhardwaj, Advocate
for respondent No.4-Cross Objector.

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

The award dated 30.01.2013 passed by the Motor Accident Claims Tribunal, Kurukshetra [for brevity 'the Tribunal'] has been assailed in appeal by the parents and minor son of Roshan Lal, seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

Wife of the deceased, who was proforma respondent before the Tribunal has filed cross-objections. Since the appeal and cross-objections have been filed for enhancement of compensation, both are being disposed of by a common order.

The driver, owner and insurer (i.e. Reliance General Insurance Company Ltd.) of car bearing registration No. HR-70-2557 [hereinafter referred to as 'offending vehicle'] are respondents No.1 to 3 respectively and wife of the deceased is proforma respondent No.4 in the appeal.

The facts emanating from the record are that on 10.01.2011, Roshan Lal was going to his village Barna Dera Ram Nagar on a bicycle. On the way, he was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he fell down and sustained injuries. He was taken to Nagpal Hospital, Kurukshetra from where he was shifted to M.M. Hospital, Mulana where he succumbed to injuries on 15.01.2011. FIR No.12, dated 13.01.2011 was registered at Police Station Sadar, Thanesar.

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 owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim petition it was pleaded that deceased was working as a Supervisor with Mohit Tent House and was earning ₹6,000/- per month, albeit, the claimants failed to substantiate occupation and earning of the deceased by leading any reliable evidence. The Tribunal assessed monthly earning of the deceased as ₹4,305/- treating him to be an unskilled labourer; 1/4th deduction for self-expenses was made and multiplier of '17' was applied. The

Tribunal awarded a sum of ₹6,78,665/- alongwith interest @ 7.5% per annum. The amount awarded included ₹20,000/- under the conventional heads.

Learned counsel for the appellants and cross-objector submit that the Tribunal has wrongly assessed monthly earning of the deceased as ₹4,305/-, as the minimum wages prevalent in the State at the time of accident were ₹4,500/- per month. Their grievance is that no future prospects have been awarded and the amount awarded under the conventional heads is on the lower side.

The claimants failed to prove monthly earning of the deceased. There is no challenge to the findings recorded by the Tribunal whereby the deceased has been considered as an unskilled labourer. The only dispute is that minimum wages at relevant time for an unskilled labourer were ₹4,500/- per month, the same would be considered for calculating the compensation.

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 falls 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.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	4,500/-
40% Future Prospects	(+) 1,800/-
Sub Total	6,300/-
1/4th deduction for self expenses	(-) 1,575/-
Monthly Dependency	4,725/-
Annual Dependency	56,700/-
Applying multiplier of '17'	**9,63,900/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**10,33,900/-**

The award dated 30.01.2013 is modified to the extent that amount of ₹6,78,665/- awarded by the Tribunal is enhanced to ₹10,33,900/-.

The claimants and proforma respondent 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.

Both the appeal and cross-objections are allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

February 20, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : Yes