IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3519 of 2013
Date of decision: 31.1.2019

**National Insurance Co. Ltd.**

**.. Appellant**

**v.**

**Gurmukh Singh and others**

**.. Respondents**

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gopal Mittal, Advocate for the appellant.

Mr. Ramneek Vasudeva, Advocate for respondent No. 1.

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

The insurer of the bus bearing registration No. PB-65K-5765 (hereinafter referred to as 'the offending vehicle') is in appeal against the award dated 11.1.2013 passed by the Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal'). The grievance raised in the appeal is regarding quantum of compensation awarded for death of Paramjit Singh under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The claimant has been arrayed as respondent No. 1 and driver and owner of the offending vehicle are respondents No. 2 and 3 respectively in the present appeal.

The brief facts are that on 27.3.2011, Paramjit Singh was riding a motor cycle bearing registration No. PB-65-L-0922. He was going from Morinda to his village, on the way, he was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Paramjit Singh died at the spot.

A claim petition under Section 166 of the Act was filed by the father of the deceased. 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.

Before the Tribunal, it was pleaded that the deceased was 26 years old at the time of accident. He was working as a Carpenter in Bahrain and was earning ₹20,000/- per month, *albiet* the claimants failed to prove that the deceased was working in Bahrain at the time of accident and was earning ₹20,000/- per month. The Tribunal assessed the dependency as ₹55,000/- per annum (though in para No. 21 of the impugned award, it is written as ₹65,000/- per annum), applied multiplier of 11 and awarded compensation of ₹6,10,000/- along with interest @ 7.5% per annum. The amount awarded included ₹5,000/- for last rites.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellant contends that the claimant failed to prove the monthly earning of the deceased. The Tribunal erred in calculating the dependency as ₹55,000/- per annum. The grievance is that the dependency calculated is much more than the minimum wages prevalent in the State of Punjab at the time of accident.

Learned counsel for the claimant contends that no future prospects have been awarded and multiplier has wrongly been applied considering the age of the claimant instead of age of the deceased at the time of accident.

From a perusal of the award, it is evident that before the Tribunal, certain acknowledgements etc. were produced for the years 2005, 2006 and 2007 to show that the deceased had sent certain amount to his father from Bahrain. However, there is nothing on record to show that after 2007 till the date of accident, the deceased was sending any amount to his father. There is no dispute with regard to the fact that he was working as a Carpenter. The Tribunal took the dependency as ₹55,000/- per annum. No assessment has been made for the annual earning of the deceased. Even if the minimum wages for a semi-skilled labourer prevalent in the State of Punjab at the time of accident are considered for calculating the compensation, the same would be 4,200/- per month. The claimant would be entitled to 40% future prospects as per the decisions of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157** and **Hem Raj v. Oriental Insurance Company Ltd., 2018(1) PLR 480**. Multiplier of 17 should be applied as the deceased was 26 years old at the time of accident. In case the compensation is re-calculated as per the minimum wages and after adding future prospects and applying multiplier of 17, the amount awarded by the Tribunal would remain almost same.

Thus, no interference is called for in the quantum of compensation awarded by the Tribunal.

The appeal is dismissed.

While issuing notice of motion in the appeal, vide order dated 8.7.2013 execution of the impugned award beyond ₹4,00,000/- was stayed.

The claimant shall be entitled to the balance amount along with interest as awarded by the Tribunal from the date of filing of claim petition till realization of the amount.

**(AVNEESH JHINGAN)**
**JUDGE**

31.1.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No