

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2227 of 2014 and
XOBJC No. 229-CII of 2018

Date of Decision: 31.01.2019

Chola Mandlam General Insurance Co. Ltd.Appellant

Versus

Manohar Lal and othersRespondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant.

Mr. Atul Yadav, Advocate
for respondents No. 1 to 3/cross objectors.

Mr. Aazam Khan, Advocate for
Mr. R.K. Sharma, Advocate
for respondent No.4.

AVNEESH JHINGAN, J.(oral)

The present appeal has been filed by the insurer of Dumper bearing registration No.HR-38-R-1964 (for short 'offending vehicle') against award dated 1.5.2013 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal'). Cross objections have also been filed by the claimants seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The issue involved in appeal as well as in the cross-objections is regarding quantum of compensation.

The brief facts are that on 8.9.2011 Narender Kumar was standing near Petrol Pump and waiting for a conveyance. At that time he was hit by a rashly and negligently driven offending vehicle. As a result of impact, he fell down and was run over by the offending vehicle. He died at the spot. FIR No. 306 dated 8.9.2011 was registered at Police Station Sohna, Gurgaon.

The claim petition was filed by parents and sister of the deceased

under Section 166 of the Act. Before the Tribunal it was pleaded that the deceased was working as a cleaner on a Truck and was earning ₹ 9000/- per month. But, the claimants failed to substantiate the monthly earning of the deceased. The Tribunal assessed the monthly earning as ₹ 6000/-; 1/3rd deduction was made for self-expenses and multiplier of 18 was applied. The Tribunal awarded a sum of ₹ 9,04,000/- along with interest at the rate of 9% per annum. The amount awarded included ₹ 30,000/- for loss of love and affection and ₹ 10,000/- for funeral expenses. The driver, owner and insurer were held jointly and severally liable to pay compensation.

I have heard learned counsel for the parties and perused the relevant documents produced by them.

Learned counsel for the insurer contends that the deceased was unmarried. The Tribunal erred in making 1/3rd deduction for self-expenses instead of 1/2th. His grievance is that no amount is to be awarded for loss of love and affection.

Learned counsel for the claimants argues that no future prospects have been awarded and no amount has been awarded for loss of estate.

There is no dispute between the parties with regard to monthly income assessed by the Tribunal, multiplier of 18 applied and the fact that the deceased was 22 years of age at the time of accident.

Having due regard to the decision of the Supreme Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157* and *Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480*, as the deceased was below 40 years of age and falls within the category of having fixed wages, 40% future prospects are awarded.

The claimants are entitled to ₹ 15,000/- each for loss of estate and

funeral expenses. No amount is awarded for loss of love and affection.

As the deceased was unmarried at the time of accident, in consonance with the decision of the Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21*, ¹/₂ deduction for self-expenses is made.

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

Sr. No.	Particulars	Amount
1.	Monthly income	₹ 6000/-
2.	40% future prospects	₹ 2400/-
3.	¹ / ₂ deduction for self-expenses	₹ 4200/-
4.	Applying multiplier of 18	₹ 9,07,200/-
5.	Conventional heads ₹ 15000/- each for loss of estate and funeral expenses	₹ 30,000/-
6.	Total	₹ 9,37,200/-

The award dated 1.5.2013 is modified to the extent that amount awarded of ₹ 9,04,000/- by the Tribunal is enhanced to ₹ 9,37,200/-. The counsel fee assessed is maintained as such.

The claimants shall be entitled to enhanced amount alongwith 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

31.01.2019
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No