

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 1512 of 2016
DECIDED ON: MARCH 13, 2019

SUMANTARI

APPELLANT

VERSUS

IQBAL AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Yash Dev Kaushik, Advocate
for the appellant.

Ms. Sunita Gupta, Advocate for
Mr. Mohammad Arshad, Advocate
for respondents No.1 and 2.

Mr. Pankaj Mehta, Advocate
for respondent No. 3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 09.11.2015 passed by the Motor Accident Claims Tribunal, Faridabad (for brevity 'the Tribunal') has been assailed by the mother of Jaswant (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, owner and insurer (i.e. Magma HDI General Insurance Co. Ltd.) of truck bearing registration No. HR-55-S-8154 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts necessary for the adjudication of the present appeal are that a motor vehicular accident took place on 23.04.2014. The accident proved fatal for Jaswant aged 25 years. FIR No. 286, dated 23.04.2014 was registered at Police Station Sohna.

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 insurer of the offending vehicle was held liable to pay the compensation.

The Tribunal awarded a sum of ₹4,68,000/- alongwith interest @ 7% per annum. The amount awarded included ₹30,000/- for funeral expenses and ₹1,50,000/- for increase in wages, loss of love and affection and pain and suffering.

The Tribunal assessed the notional income of the deceased as ₹6000/- per month; 1/2 deduction for self-expenses was made and considering the age of the claimant, multiplier of '8' was applied.

Learned counsel for the appellant contends that multiplier of '8' has wrongly been applied considering the age of the claimant. He further contends that no amount has been awarded for loss of estate. His grievance is that no future prospects have been awarded.

Learned counsel for the insurer while defending the award resisted any further enhancement. He contends that no amount should be awarded for increase in wages, loss of love and affection and pain and suffering. His grievance is that amounts under the conventional head be awarded in consonance with the decision of the Supreme Court in National

Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157,

The contention raised by learned counsel for the appellant deserves acceptance. There is no dispute between the parties with regard to the age of deceased.

Having due regard to the decisions of the Supreme Court in **Pranay Sethi's** case (supra) and **Hem Raj vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480;** 40% future prospects are awarded, as the deceased was below 40 years and falls in the category of self employed having fixed wages.

The deceased was 25 years old at the time of accident, multiplier of '18' is to be applied, in consonance with the decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.**

The issue regarding application of multiplier considering the age of the deceased and not as per age of the claimant is no longer *res-integra*. The Supreme Court in the case of **Sube Singh and another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18** has held as under:

“On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e. 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of

the deceased. The legal position, however, is no more res integra. In the case of Munna lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants.

(emphasis supplied)

As the quantum of compensation is being revisited, the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in **Pranay Sethi's** case (supra). The claimant is entitled to ₹15000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of love and affection and pain and suffering. As future prospects are being awarded there would be no occasion to award compensation for increase in wages.

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

	Head	Compensation awarded
(i)	Monthly Income	₹ 6000/- per month
(ii)	Future prospects at 40%	₹ 2400/- per month
(iii)	Total Income	₹ 8400/- per month
(iv)	Deduction of personal expenses	₹ 4200/- (i.e. 1/2 of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	4200x12x18= ₹9,07,200/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹9,37,200/-

The award dated 09.11.2015 is modified to the extent that amount of ₹4,68,000/- awarded by the Tribunal is enhanced to ₹9,37,200/-.

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

The appeal is partly allowed.

(AVNEESH JHINGAN)
JUDGE

MARCH 13, 2019
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>