IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3026 of 2015 (O&M)

Date of Decision: 26.02.2019

Paramjit Kaur and others

.......Appellants

Versus

Sucha Singh and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. G.N. Malik, Advocate
for the appellants.

Mr. Rohit Kapoor, Advocate
for respondents No. 1 and 2.

Mr. Pardeep Goyal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 11.12.2013 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The claimants are mother, sister and minor brother of Rupinder Kaur.

Respondents No.1 and 2 are driver and owner of the bus bearing registration No.PB-12-L-4955 (for short 'the offending vehicle') and respondent No.3 (i.e. The New India Assurance Company Limited) is the insurer of the offending vehicle.

The brief facts necessary for adjudication of the present appeal are that on 5.10.2011, Rupinder Kaur along with her father Kewal Krishan was coming from Patiala to Bassi Pathana on Hero Honda Motor cycle bearing registration No. PB-11AG-5635, Rupinder Kaur was pillion rider. On their way the motor cycle was hit by the offending vehicle. As a result of the impact, Rupinder Kaur fell down and was crushed beneath the tyre of offending vehicle. She died at the spot. FIR was registered.

In the claim petition filed, it was proved that the deceased was 20 years of age and was working as a constable in Punjab Police. Her salary was ₹ 14,139/-.

The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held liable jointly and severally to pay compensation. 50% future prospects were awarded. 1/2 deduction for self-expenses was made as she was unmarried and split mulitiplier was applied i.e. multiplier of 6 was on the dependency assesssed of ₹ 10,000/- and multiplier of 8 on ₹ 1000/-. The Tribunal awarded a sum of ₹ 8,41,000/- alongwith interest at the rate of 8% per annum. The amount awarded included ₹ 25,000/- for funeral expenses.

Learned counsel for the appellants contends that no future prospects have been awarded and the Tribunal erred in applying split multiplier. His grievance is that no amount has been awarded for loss of estate.

Learned counsel for the insurer defended the award and resisted any further enhancement. He further contended that the amount awarded for funeral expenses is on higher side.

There is no dispute between the parties with regard to age, income and 1/2 deduction made for self-expenses. The deceased was a Government Employee and having a permanent job, in view of the decision of the Supreme

Court ***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,*** 50% future prospects are awarded.

The Tribunal has not given any reason for applying split multiplier.

The aim of awarding the compensation is that, so far as possible a person suffering by a wrong act of another person is placed in a position, in which he would have been, had the harm not been caused. The endeavour is that the sufferer receives full compensation, no more but certainly no less. The compensation can only be awarded for the harm which money can redress. There are certain losses which cannot be compensated by any amount of money. The duty of the Court would be to arrive at just and equitable compensation. One of the logical and reliable methods is to rely upon multiplier method to arrive at compensation to be awarded. The Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** has provided a table for multiplier to be applied as per the age of the deceased. Thus, the compensation is awarded to the claimants by applying the multiplier method and not by applying split multiplier.

Considering the age of the deceased as per the decision of the Supreme Court in **Sarla Verma's case (supra)**, multiplier of 18 is applied.

As the quantum of compensation is being re-visited, the amount awarded under the conventional heads are made in consonance with the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157***. As such, the claimants are entitled to ₹ 15,000/- each for funeral expenses and for loss of estate.

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

Sr. No.	Particulars	Amount Awarded
1.	Monthly income	₹ 14,139/-
2.	50% future prospects	₹ 7070/-
3.	1/2nd dedcution made for self-expenses	₹ 10,604/-
4.	Applying mulitplier of 18	₹ 22,90,464/-
5.	Conventional heads ₹ 15,000/- each for funeral expenses and loss of estate	₹ 30,000/-
6.	Total	₹ 23,20,464/-

The award dated 11.12.2013 is modified to the extent that amount awarded of ₹ 8,41,000/- by the Tribunal is enhanced to ₹ 23,20,464/-.

The claimants shall be entitled to enhanced amount alongwith interest as awarded by the Tribunal from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

26.02.2019
reema

Whether speaking/reasoned Yes
Whether Reportable: Yes