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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.4573 of 2015 (O&M)
Date of Decision: 14.03.2019

Om Parkash and others

Appellants

Versus

Premi and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ishan Bhardwaj, Advocate for
Mr. Saurabh Gulia, Advocate
for the appellants.

Mr. Vishal Yadav, Advocate
for respondent No.1.

None for the Insurance Company
inspite of service.

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AVNEESH JHINGAN, J (Oral):

The award dated 17.11.2014 passed by the Motor Accident Claims Tribunal, Rewari [for brevity 'the Tribunal'] has been assailed by the parents and sister of Satender (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The owner-cum-driver and insurer (i.e. National Insurance Company Ltd.) of Car bearing registration No. HR-36G-5356 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 and 2 respectively in the appeal.

The facts emanating from the record are that on

06.05.2013, Satender alongwith Sonu was travelling on a motor-cycle bearing registration No. HR-99MS-Temp-2921. When they reached near Azad Chowk, Rewari, the motorcycle was struck by a rashly and negligently driven offending vehicle. Due to the impact, Satender suffered grievous injuries and became unconscious. He was admitted in H-Way Hospital, Rewari, where he succumbed to the injuries. FIR No.156, dated 06.05.2013 was registered at Police Station City, Rewari.

In the claim petition, it was pleaded that the deceased was 18 years old and was earning ₹15,000/- per month by running business of selling and repairing R.O. Systems. The claimants failed to substantiate the occupation and monthly earning of the deceased. It was deposed by father of deceased that he had passed 10+2 but he admitted that he was not having any diploma or degree. The Tribunal assessed monthly earning of the deceased as ₹6,000/-; ½ deduction for self-expenses was made and multiplier of '15' was applied relying upon the age of the mother of the deceased. The Tribunal awarded compensation of ₹7,55,360/- alongwith interest @ 7.5% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹1,90,360/- for medical expenses.

Learned counsel for the appellants raises three-fold issues:-

- firstly, that no future prospects have been awarded;

- secondly, that the Tribunal erred in applying multiplier of '15' relying upon the age of mother of the deceased; and
- lastly, no amount has been awarded for loss of estate.

Learned counsel for respondent No.1 argues that amount awarded for funeral expenses is on the higher side.

Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

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 would fall under the category of self-employed or a person having fixed wages.

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

The issue that multiplier is to be applied considering the age of the deceased and not relying upon the age of the claimants is no longer *res-integra.* The Supreme Court in ***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 re-visited, the amounts awarded under the conventional heads are awarded as per decision of the Supreme Court in ***Pranay Sethi's*** case (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate.

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

Particulars	**Amount (in ₹)**
Monthly income of the deceased as assessed	6,000/-
40 % Future Prospects	2,400/-
Sub Total	8,400/-
½ deduction for self expenses	4,200/-
Monthly Dependency	4,200/-
Annual Dependency	50,400/-
Applying multiplier of '18'	**9,07,200/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Grand Total	**9,37,200/-**

The award dated 17.11.2014 is modified to the extent that amount of ₹7,55,360/- awarded by the Tribunal is enhanced to ₹9,37,200/-.

The claimants 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 allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

March 14, 2019
pankaj baweja

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