

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 5400 of 2015
DECIDED ON: MAY 08, 2019

MADAN LAL HANDA

APPELLANT

VERSUS

KARAMBIR AND ORS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Namit Sharma, Advocate
for the appellant.

Mr. Ankur Gupta, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

The award dated 27.05.2015 passed by the Motor Accident Claims Tribunal, Karnal (for brevity 'the Tribunal') has been assailed by the husband of Urmila Handa (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. IFFCO-Tokio General Insurance Co. Ltd.) of motorcycle bearing registration No. HR-05-AF-2902 (hereinafter referred to as 'offending vehicle'), have been arrayed as respondents No.1 to 3.

The factum of the accident has not been disputed by the parties. A motor vehicular accident took place on 08.12.2012. The

accident proved fatal for Urmila Handa, aged 60 years.

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 driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, it was pleaded that the deceased was 60 years old and was a retired teacher from private school. Her monthly earning was claimed to be as ₹20,000/-. The Tribunal assessed the monthly earning of the deceased as ₹5000/- and multiplier of '5' was applied. The Tribunal awarded a compensation of ₹4,25,000/- along-with interest @9 % per annum. The amount awarded included ₹1,00,000/- for loss of love and affection and loss of consortium and ₹25,000/- for funeral expenses.

Heard learned counsel for the parties and perused the record produced by them.

Learned counsel for the appellant argues that the deceased was in the age group of 56-60 but the Tribunal has wrongly applied the multiplier of '5'. His grievance is that no amount is awarded for loss of estate.

Learned counsel for the insurer contends that the amounts awarded under the conventional heads are on higher side. He argues that the deceased was above 60 years of age and multiplier of '7' is to be applied by taking the deceased in the age group of 61-65.

The contention raised by learned counsel for the appellant deserves acceptance.

The date of birth of the deceased was 22.05.1952. The deceased was 60 years and 6 months at the time of accident. She is to be considered as 60 years and not 61 years. The Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21;** has given a table. The table is not overlapping table. It deals with the multiplier to be applied on the age of person in the age group 56-60 and 61-65. As the deceased was 60 years old and had not completed the age of 61, multiplier of '9' is to be applied.

As the quantum of compensation is being revisited, it would be appropriate that amounts under the conventional heads are awarded as per decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157** . The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- is awarded for loss of consortium to the husband of the deceased. No amount is to be awarded for loss of love and affection.

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

	Head	Compensation awarded
(i)	Annual Income	₹ 60,000/-
(ii)	Multiplier	9 (as per age of deceased)
(iii)	Loss of income	60,000x9= ₹5,40,000/-
(iv)	Funeral expenses	₹15,000/-
(v)	Loss of estate	₹15,000/-
(vi)	Loss of consortium	₹ 40,000/-
	Total Compensation awarded	₹6,10,000/-

The award dated 27.05.2015 is modified to the extent that amount of ₹4,25,000/- awarded by the Tribunal is enhanced to ₹6,10,000/-.

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.

Appeal is allowed.

(AVNEESH JHINGAN)
JUDGE

MAY 08, 2019

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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>