**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO No. 6548 of 2015
DECIDED ON: APRIL 03, 2019**

ARUNA KUMARI AND OTHERS

APPELLANTS

VERSUS

AMRIT PAL SINGH AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Neeraj Khanna, Advocate for
Mr. Nitin Mittal, Advocate
for the appellants.

Mr. Sanjeev Kodan, Advocate
for respondent No.3-Insurance Company.

****

<u>AVNEESH JHINGAN, J (Oral):</u>

The award dated 30.05.2015 passed by the Motor Accident Claims Tribunal, Ambala (for brevity 'the Tribunal') has been assailed in appeal by the parents and brother of Arpit Sood (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, registered owner and insurer (i.e. Reliance General Insurance Company Ltd.) of car bearing registration No. PB-13-AB-6177 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts with regard to the accident are not in dispute between the parties. A motor vehicular accident took place on 31.01.2014. The accident proved fatal for Arpit Sood, aged 22 years. FIR No. 21, dated 31.01.2014 was registered at Police Station Sohana, Distt. Mohali.

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 22 years old at the time of accident and was pursuing the course of Bachelor of Technology (Computer Science Engineering) from Shaheed Udham Singh College of Engineering and Technology, Tangori. Though, he was not earning anything but it was pleaded that he was active in extra curricular activities. The said fact was duly proved by producing certificate from the college. The Tribunal assessed monthly earning of the deceased as ₹8000/-; 1/2 deduction for self-expenses was made as the deceased was un-married and considering the age of the claimants, multiplier of '13' was applied.

The Tribunal awarded a sum of ₹7,49,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹1,00,000/- for loss of love and affection.

Learned counsel for the appellants contends that the income assessed by the Tribunal is on the lower side as the deceased was at his prime youth and was about to complete his B.Tech course. He further submits that the Tribunal erred in applying the multiplier of '13' by considering the age of the claimant(s). His grievance is that no future prospects have been awarded and no amount has been awarded for loss of estate.

Learned counsel for the insurer while defending the award resisted any further enhancement. He contends that the Tribunal has rightly assessed the monthly income of the deceased as ₹8000/- per month, the same is much more than the minimum wages prevalent in the State at the time of accident for an unskilled labourer. He further contends that the amount under the conventional heads 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*** and no amount should be awarded for loss of love and affection.

In the motor vehicular accident cases, the courts are duty bound to award just and equitable compensation. This duty becomes more onerous in cases where the deceased is a student, as it is impossible to predict that what the future held for the deceased. In the present case the deceased was pursuing a course of Bachelor of Technology (Computer Science Engineering), he was just 22 years old. In such circumstances it would not be appropriate to equate him with an unskilled labourer.

The Supreme Court in ***"M.R. Krishna Murthi vs. New India***

Assurance Co. Ltd. and others, **2019 (4) Scale 362**, has carved out principles for dealing with the cases where the deceased was a student. It was held as under:-

> *"23. From the conjoint reading of the aforesaid judgments, inter alia, following principles can be culled out which would be relevant for deciding the instant appeal:*
>
> *(i) In those cases where the victim of the accident is not an earning person but a student, while assessing the compensation for loss of future earning, the focus of the examination would be the career prospect and the likely earning of such a person in future. For example, where the claimant is pursuing a particular professional course, the poseer would be: what would have been his income had he joined a service commensurating with the said course. That can be the future earning.*
>
> *(ii) There may be cases where the victim is not, at that stage, doing any such course to get a particular job. He or she may be studying in a school. In such a case, future career would depend upon multiple factors like the family background, choice/interest of the complainant to pursue a particular career, facilities available to him/her for adopting such a career, the favourable surrounding circumstances to see which would have enabled the claimant to successfully pick up the said career etc.*
>
> *If the chosen field is employment, then the future earning can be taken on the basis of salary and allowances which are payable for such calling. In case, career is a particular profession, the future earning would depend on host of other factors on the basis of which chances to achieve success in such a profession can be ascertained.*
>
> *(iii) There may be cases like Deo Patodi where even a*

> *student, the claimant would have made earnings on part-time basis or would have received offer for a particular job. In such cases, these factors would also assume relevance.*
> *(iv) After ascertaining the likely earning of the victim in the aforesaid manner, the nature of injuries and disability suffered as a result thereof would be kept in mind while determining as to how much earning has been affected thereby. Here, impact of injuries on functional disability is to be seen. In case of death of victim, it would result in total loss of earning. In the case of injuries, the nature of disability becomes important. Such an exercise was undertaken in N. Manjegowda case."*

The Supreme Court held that while assessing the compensation for loss of future earning, career prospects has to be looked into especially keeping in view of the professional course being pursued by the deceased and as to what would be the income if the deceased would have joined the service.

In the case in hand the deceased was pursuing Bachelor of Technology (Computer Science Engineering) and was in final year. Considering the above-stated facts the monthly income of the deceased is assessed as ₹9000/-.

The deceased was 22 years of age, 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 claimants 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)*

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 of age and would fall in category of self-employed or having fixed wages.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in **Pranay Sethi's** case (supra). The claimants are entitled to ₹15000/- each for funeral expenses and for loss of estate.

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

	Head	**Compensation awarded**
(i)	Monthly Income	₹ 9000/- per month
(ii)	Future prospects at 40%	₹ 3600/- per month
(iii)	Total Income	₹ 12,600/- per month
(iv)	Deduction of personal expenses	₹ 6300/- (i.e. 1/2 of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	6300x12x18= ₹13,60,800/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹13,90,800/-

The award dated 30.05.2015 is modified to the extent that amount of ₹7,49,000/- awarded by the Tribunal is enhanced to ₹13,90,800/-..

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.

(AVNEESH JHINGAN)
JUDGE

APRIL 03, 2019
sham

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***