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

**FAO No.6978 of 2015
Date of Decision: 18.01.2019**

Oriental Insurance Company Ltd.

Appellant

Versus

Smt. Vijay Chauhan and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. Vikram Bali, Advocate
for respondents No.1 to 4.

Mr. Chander Kant Thakur, Advocate
for respondents No.5 and 6.

AVNEESH JHINGAN, J (Oral):

The insurer of motorcycle bearing registration No. HR-03G-9426 [hereinafter Referred to as 'offending vehicle'] is in appeal against award dated 15.07.2015 passed by the Motor Accident Claims Tribunal, Chandigarh [for brevity 'the Tribunal'], being aggrieved of the quantum of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The facts emanating from the record are that a motor

vehicular accident took place on 24.08.2014. The accident proved fatal for Jaipal Chauhan who was pillion rider on the offending vehicle.

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

In the claim petition, it was pleaded that the deceased was an employee with Hindustan Machine Tools, Pinjore, after deducting the T.D.S., his monthly income was assessed by the Tribunal as ₹33,000/-; 30% future prospects were awarded; 1/3rd deduction for self-expenses was made and considering the deceased to be 45 years old at the time of accident, multiplier of '14' was applied. The Tribunal awarded a sum of ₹50,80,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹1,00,000/- for loss of consortium, ₹1,50,000/- for loss of love & affection and ₹25,000/- for funeral expenses.

Heard learned counsel for the parties, perused the paper book and the record.

Learned counsel for the appellant contends that as per the Service Certificate, date of birth of the deceased was 03.07.1964. He further contends that the Tribunal erred in considering the age of the deceased to be 45 years at the time of

accident and thereby the Tribunal has erred in awarding future prospects and applying multiplier. He submits that the amounts awarded under the conventional heads are also on the higher side and no amount should be awarded for loss of love & affection.

Learned counsel for the claimant vehemently defends the award but could not raise any serious dispute with regard to date of birth of the deceased, as per which the age of the deceased was more than 50 years at the time of accident.

The contentions raised by learned counsel for the appellant deserve acceptance. As per the date of birth, the age of the deceased was just a month older than 50 years at the time of accident. Having due regard to the decision of the Supreme Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157**, 15% future prospects are awarded as the deceased was having a permanent job. The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- are awarded to the widow for loss of consortium and no amount can be awarded for loss of love and affection.

In consonance with the decision of the Supreme Court in case of **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21**, multiplier of '13' is to be applied.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	33,000/-
15% Future Prospects	4,950/-
Sub Total	37,950/-
1/3 rd deduction for self expenses	(-) 12,650/-
Monthly Dependency	25,300/-
Annual Dependency	3,03,600/-
Applying multiplier of '13'	39,46,800/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Loss of consortium to widow	40,000/-
Grand Total	40,16,800/-

The award dated 15.07.2015 is modified to the extent that amount of ₹50,80,000/- awarded by the Tribunal is reduced to ₹40,16,800/-.

Notice was issued in the appeal on 12.10.2015. While issuing notice of motion, it was ordered that on deposit of ₹38,00,000/- by the appellant, recovery of the remaining amount shall remain stayed.

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

The appeal is allowed.

[AVNEESH JHINGAN]
JUDGE

January 18th, 2019
pankaj baweja

1. Whether speaking/reasoned
- :
- Yes/ No
2. Whether reportable
- :
- Yes/ No