

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 702 of 2015
DECIDED ON: MARCH 19, 2019

SANTOSH AND ANOTHER

APPELLANTS

VERSUS

MANOJ KUMAR AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.K. Yadav, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 16.10.2014 passed by the Motor Accident Claims Tribunal, Narnaul (for brevity 'the Tribunal') has been assailed in appeal by the parents of Vikram (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. National Insurance Company Ltd.) of tralla bearing registration No. RJ-18GA-2967 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

There is no dispute between the parties with regard to the factum of accident. A motor vehicular accident took place on 12.04.2013.

The accident proved fatal for Vikram aged 23 years.

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 proceedings, the Tribunal assessed monthly earning of the deceased as ₹8000/-; 1/2 deduction for self-expenses was made as the deceased was bachelor and considering the age of the parents of the deceased, multiplier of '13' was applied. The Tribunal awarded a sum of ₹6,74,000/- alongwith interest @ 9% per annum. The amount awarded included ₹20,000/- for transportation and last rites and ₹30,000/- for love and affection.

Learned counsel for the appellants contends that multiplier of '13' has wrongly been applied considering the age of the claimants. His grievance is that no future prospects have been awarded.

Learned counsel for the insurer while defending the award submits that the compensation awarded by the Tribunal is just and equitable. He resisted any further enhancement. He contends that no amount should be awarded for loss of love and affection and 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” .

There is no dispute between the parties with regard to income and age of deceased, assessed by the Tribunal.

The deceased was 23 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 and falls in the category of self employed or having fixed wages. Claimants are also entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of

love and affection.

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

	Head	Compensation awarded
(i)	Monthly Income	₹ 8000/- per month
(ii)	Future prospects at 40%	₹ 3200/- per month
(iii)	Total Income	₹ 11,200/- per month
(iv)	Deduction of personal expenses	₹ 5600/- (i.e. 1/2 of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	5600x12x18= ₹12,09,600/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹12,39,600/-

The award dated 16.10.2014 is modified to the extent that amount of ₹6,74,000/- awarded by the Tribunal is enhanced to ₹12,39,600/-.

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

MARCH 19, 2019
sham

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>