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

**FAO No.8791 of 2014
Date of Decision: 23.01.2019**

Karnail Singh and another

Appellants

Versus

Karamjit Singh and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.S. Swaich, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The present appeal has been preferred seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] for death of Amandeep Singh, aged 24 years. He was a Mobile Mechanic and his income was assessed as ₹6,000/- per month by the Motor Accident Claims Tribunal, Fatehgarh Sahib [for brevity 'the Tribunal']. The claimants were parents of the deceased. The Tribunal assessed compensation as ₹4,78,000/- alongwith interest @ 7.5% per annum, vide award dated 17.09.2012.

The driver-cum-owner and insurer (i.e. United India

Insurance Company Ltd.) of Car bearing registration No. PB-11AE-5000 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 and 2 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 07.12.2011, Amandeep Singh was riding motorcycle bearing registration No. PB-12J-7055. He was followed by Tarlochan Singh on a separate motorcycle. When they reached near the Computer Kanda, Guru Ki Nagri, Mandi Gobindgarh, motorcycle of Amandeep Singh was struck by a rashly and negligently driven offending vehicle. As a result of the impact, he sustained injuries, he was taken to Civil Hospital, Mandi Gobindgarh from where he was referred to PGI, Chandigarh, where he succumbed to the injuries. FIR No.181 dated 08.12.2011 was registered at Police Station Mandi Gobindgarh.

A claim petition was filed under Section 166 of the Act. In the claim petition, it was pleaded that the deceased was 24 years old at the time of accident. It was further pleaded that he was working as a Mobile Mechanic in a proprietorship concern i.e. M/s Osho Mobile Care.

The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner-cum-driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal assessed monthly income of the deceased as ₹6,000/-; ½ deduction for self-expenses

was made and multiplier of '13' was applied considering the age of parents of the deceased. ₹10,000/- were awarded for transportation and funeral expenses.

Learned counsel for the appellants contends that no future prospects have been awarded. Further that the Tribunal erred in applying multiplier of '13' by considering the age of parents of the deceased. His grievance is that the amounts awarded under the conventional heads are on the lower side. No other issue has been raised.

Learned counsel for the insurer while defending the award resisted any further enhancement.

The contentions raised by learned counsel for the appellant deserve acceptance. Having due regard to the decision 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 was 24 years old at the time of accident and was self-employed. The appellants are also entitled to ₹15,000/- each for funeral expenses and for loss of estate.

In consonance with 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 instead of 13.

The issue regarding applying multiplier by considering the age of the deceased and not of the parents, 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.”

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 17.09.2012 is modified to the extent

that amount of ₹4,78,000/- awarded by the Tribunal is enhanced to ₹9,37,200/-.

The claimants shall be entitled to 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

January 23rd, 2019
pankaj baweja

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