

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 9151 of 2014 (O&M)

Date of Decision: 04.04.2019

The Oriental Insurance Company Limited

.....Appellant

Versus

Siyamani and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjiv Pabbi, Advocate
for the appellant.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 17.10.2013 passed by the Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'the Tribunal') by the insurer of truck bearing registration No. RJ-10-GA-0511 (for short 'the offending vehicle')

Respondents No. 1 and 2 are the claimants and respondent No.3 and 4 is the driver and owner of offending vehicle.

Office has reported that notices could not be served upon respondents No. 3 and 4 as they were not residing at the correct addresses.

Learned counsel for the appellant states that only challenge is with regard to quantum of compensation. Respondents No. 1 and 2 would only be the necessary party.

No one has put in appearance on behalf of respondents No. 1 and 2 inspite of service.

The brief facts necessary for adjudication of the present appeal

are that a motor vehicular accident took place on 18.5.2012. The accident proved fatal for Umesh Kumar, aged 24 years. The accident was result of rash and negligent driving of the offending vehicle. FIR No. 114 dated 18.5.2012 was registered

In the claim proceedings, the Tribunal assessed the monthly income of deceased as ₹ 6110/-, ½ deduction for self expenses as he was a Bachelor, multiplier of 18 was applied considering the fact that he was 24 years of age at the time of accident. A sum of ₹ 6,90,000/- alongwith interest at the rate of 9% per annum was awarded. The amount awarded included ₹ 30,000/- under conventional heads. The owner, driver and insurer were held jointly and severally liable to pay compensation.

The only grievance raised by learned counsel for the appellant in the present appeal is that the deceased was a Bachelor hence multiplier considering the age of the mother of the deceased should be applied.

The issue raised is no longer res-integra.

The Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21** has given a chart of multiplier to be applied considering the age of the deceased as the deceased was in the age group of 21 to 25 and multiplier of 18 is applied.

The issue that the multiplier is to be applied considering the age of the deceased and not of the claimants has been dealt with by the Supreme court in the case of ***Sube Singh and another vs. Shyam Singh (Dead) and others; (2018) 3 SCC 18*** and it has been 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."

Further, the Supreme Court in ***Magma General Insurance Company Ltd. Versus Nanu Ram alias Chuhru Ram and others, 2018(9) JT 195*** has held as under:

"4.The Respondents Nos. 1 and 2- i.e. the father and sister of the deceased filed an Appeal against the order of the MACT before Punjab and Haryana High Court praying for enhancement of compensation. The High Court held that the facts relating to the accident were admitted and proved before the MACT. It was established that the deceased had died as a result of the rash and negligent driving of respondent No.3. The High Court found that the MACT had used the wrong principle for application of the multiplier. The multiplier ought to have been taken on the basis of the age of the deceased, and not of his father."

The contention raised by learned counsel for the appellant lacks merit.

The appeal is accordingly dismissed.

(AVNEESH JHINGAN)
JUDGE

04.04.2019
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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No