IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 7609 of 2015 (O&M)

Date of Decision: 01.03.2019

Kulwinder Kaur and another

.......Appellants

Versus

Jagdeep Singh and others ......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Vinod Gupta, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 16.5.2014 passed by Motor Accident Claims Tribunal, Jalandhar (for short 'the Tribunal') under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The appellants are the parents of Charan Kamaldeep Singh (deceased). Respondent No.1 is driver of Bus bearing registration No.PB-10-CP-1613 (for short 'the offending vehicle') and respondents No. 2 and 3 are the owner and insurer (i.e. The New India Assurance Co. Ltd.) of the offending vehicle.

The facts are not disputed by the parties that a motor vehicular accident took place on 4.2.2013. The accident proved fatal for Charan Kamaldeep Singh, aged 17 years. It was claimed that he had passed 10+1 and was holder of Master Diploma in Information Technology and System Management. The Tribunal opined that the accident took place due to rash and negligent driving of the offending vehicle.

The Tribunal after considering the facts and appreciating the

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evidence adduced, assessed the monthly income of the deceased as ₹ 5000/- per month as the claimants failed to substantiate the monthly earning of the deceased; ½ deduction for self-expenses was made and multiplier of 15 was applied considering the age of the claimants. The Tribunal awarded a sum of ₹ 4,75,000/- alongwith interest at the rate of 7.5% per annum. The amount awarded included ₹ 25,000/- for funeral expenses. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

Heard learned counsel for the parties and perused the relevant documents produced by them.

Learned counsel for the appellants contends that the monthly income of the deceased assessed by the Tribunal is on the lower side and the Tribunal has not considered the fact that he was a 10+2 student of Commerce stream and was holding a Master Diploma, the certificate was issued by V.Tech Computer Education. He argues that no future prospects have been awarded and multiplier of 15 has wrongly been applied considering the age of the claimants. His grievance is that no amount for loss of estate has been awarded.

Learned counsel for the insurer submits that the deceased was only a student and was not earning anything and the Tribunal rightly assessed the income as ₹ 5000/- per month. He further argues that the amount awarded for funeral expenses is on the higher side.

There is no dispute between the parties with regard to the age of the deceased at the time of accident i.e. 17 years and the fact that he was a student of 10+2, Commerce stream and was having a certificate of Master Diploma. No amount of monetary compensation can compensate the parents who have lost their young son in a motor vehicular accident. The Courts are

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duty bound to award just and equitable compensation, the only restriction is that it should not be a windfall.

In the present case, the deceased was a student of 17 years and a diploma holder. He was brilliant student and cannot be equated with an unskilled or a semi-skilled labourer. One of the yardstick is to take clue from the minimum wages prevalent in the State at the time of accident. When a young student dies, it is impossible to assess what the future held for him. Minimum wages for a skilled labourer at the time of accident were ₹ 7372/-, keeping in view the facts and circumstances of the case, the income of the deceased is assessed as ₹ 10,000/- per month.

Having due regard to the decisions of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,*** 40% future prospects are awarded.

The Tribunal erred in applying the multiplier by considering the age of the mother of the deceased. The issue is no longer res-integra that multiplier is to be applied considering the age of the deceased and not of the claimants. 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."*

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The deceased was 17 years of age and as per decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** a multiplier of 18 is applied considering the age of the deceased.

As the quantum of compensation is being revisited, the amounts under conventional heads are made in consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra)**. The claimants are entitled to ₹ 15,000/- each for funeral expenses and for loss of estate.

In view of the above discussion, the compensation is recalculated as under:-

Sr. No.	Particulars	Amount awarded
1.	Monthly income	₹ 10,000/-
2.	40% future prospects	₹ 4000/-
3.	½ deduction for self-expenses	₹ 7000/-
4.	Multiplier of 18	₹ 15,12,000
5.	Conventional heads ₹ 15,000/- each for loss of estate and funeral expenses	₹ 30,000/-
6.	Total	₹ 15,42,000/-

The award dated 16.5.2014 is modified to the extent that amount awarded of ₹ 4,75,000/- by the Tribunal is enhanced to ₹ 15,42,000/-.

The claimants shall be entitled to enhanced amount alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

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Whether speaking/reasoned Yes
Whether Reportable: Yes

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