

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 2432 of 2010(O&M)

Date of Decision: 15.03.2019

Smt. Darshna Devi

.....Appellant

Versus

Joginder and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Kotla, Advocate
for the appellant.

Mr. Vikas Mohan Gupta, Advocate
Mr. Varun Mittal and Mr. Anshul Sharma, Advocates
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The present appeal has been filed by the claimant against award dated 19.1.2009 passed by the Motor Accident Claims Tribunal, Fatehabad, seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

Appellant is the mother of Balbir Singh (deceased). Respondents No.1 to 3 are driver, owner and insurer (i.e. United India Insurance Company Ltd.) of the TATA vehicle bearing registration No.HR-38-G-1440 (for short 'the offending vehicle'). Widow and minor children of Balbir Singh (deceased) have been arrayed as proforma respondents No. 4 to 6.

The facts with regard to accident have not been disputed by the parties. A motor vehicular accident took place on 25.10.2005. The said accident proved fatal for Balbir Singh, aged 24 years. The accident was

caused due to rash and negligent driving of the offending vehicle. The Tribunal after considering the facts and appreciating the evidence adduced held the owner, driver and insurer of the offending vehicle jointly and severally liable to pay the compensation.

In the claim proceedings before the Tribunal, the monthly earning of the deceased was proved as ₹ 9000/- as he was working as JBT Teacher in the Government School, 1/3rd deduction for self-expenses was made and multiplier of 17 was applied. A sum of ₹ 12,34,000/- along with interest at the rate of 9% per annum was awarded for the death of Balbir Singh. The amount awarded included ₹ 5000/- each for loss of consortium and for funeral expenses.

Learned counsel for the appellant has raised three fold submission; firstly that no future prospects have been awarded; secondly 1/3rd deduction for self-expenses has wrongly been made as deceased was survived by four dependants; and lastly that the amount awarded under conventional heads are on lower side and no amount is awarded for loss of estate.

Learned counsel for the insurer defended the award and resisted any further enhancement.

The deceased was a Teacher in a Government School and was below 40 years of age, in consonance with the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157***, 50% future prospects are awarded.

The deceased was survived by four dependants and as per the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21***, 1/4th deduction for self-expenses is made.

As per the decision of the Supreme Court in **Pranay Sethi's case (supra)**, ₹ 15,000/- each is awarded for loss of estate and for funeral expenses and ₹ 40,000/- is awarded for loss of consortium to the widow.

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

Sr. No.	Particulars	Amount awarded
1.	Monthly income	₹ 9000/-
2.	50% future prospects	₹ 4500/-
3.	1/4 th deduction for self-expenses	₹ 3375/-
4.	Multiplier of 17 (10125 x12 x17)	₹ 20,65,500/-
5.	Conventional heads	₹ 70,000/-
6.	Total	₹ 21,35,500/-

The award dated 19.1.2009 is modified to the extent that amount of ₹ 12,34,000/- awarded by the Tribunal is enhanced to ₹ 21,35,500/-. The enhanced amount shall be disbursed in the same proportion to the claimants as was held by the Tribunal. The claimants shall be entitled to enhanced amount alongwith interest @ 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

15.03.2019
reema

Whether speaking/reasoned Yes
Whether Reportable: Yes