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

****

FAO No.5132 of 2017 (O&M)
Date of Decision: 14.05.2019

Ramandeep Kaur

Appellant

Versus

Darshan Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.K. Goyal, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.2.

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<u>AVNEESH JHINGAN, J (Oral):</u>

The award dated 25.11.2016 passed by the Motor Accident Claims Tribunal, Sangrur [for brevity 'the Tribunal'] has been assailed by the widow of Sukhwinder Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, insurer (i.e. United India Insurance Company Ltd.) and owner of Indica Car bearing registration No. PB-11AS-8219 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal. The parents of the deceased are proforma respondents No.4 and 5.

The factum of the accident has not been disputed by the parties. A motor vehicular accident took place on 16.01.2015. The accident proved fatal for Sukhwinder Singh, aged 28 years. The accident was result of rash and negligent driving of the offending vehicle. FIR No.23, dated 16.01.2015 was registered at Police Station City, Sangrur. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, it was claimed that the deceased was working as *Sewadar/Granthi* and was engaged in dairy farming work. His monthly earning was claimed to be ₹12,700/- i.e. ₹10,000/- from selling milk and ₹2,700/- as salary from Gudwara Mastuana Sahib. The claimants failed to prove monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹6,000/- per month; 1/3rd deduction for self-expenses was made and multiplier of '17' was applied. The Tribunal awarded compensation of ₹10,41,000/- alongwith interest @7.5% per annum. The amount awarded included ₹1,00,000/- for loss of consortium; ₹1,00,000/- for loss of love and affection and ₹25,000/- for funeral expenses.

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

Learned counsel for the appellant states that the income assessed by the Tribunal is less than the minimum wages for an unskilled labourer prevalent in the State at relevant time. He submits that compensation be calculated as per minimum wages. His grievance is that no future prospects have been awarded.

Learned counsel for the insurer argues that the claimants failed to prove earning of the deceased. He further argues that amounts awarded under the conventional heads are on the higher side and no amount be awarded for loss of love and affection.

The claimants failed to prove earning of the deceased, in such circumstances, one of the safest yardstick is to rely upon minimum wages prevalent in the State at the relevant time. In order to award just and equitable compensation and having clue from the minimum wages for an unskilled labourer, monthly income of the deceased is assessed as ₹7,000/-.

In consonance with 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 below 40 years and fell in the category of person having fixed wages.

There is no challenge to the 1/3rd deduction made for self-expenses and multiplier applied of '17'.

As the quantum of compensation is being re-visited, it would be appropriate that the amounts under the conventional heads be awarded as per 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. ₹40,000/- are awarded to the widow for loss of consortium.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	7,000/-
40% Future Prospects	2,800/-
Sub Total	9,800/-
1/3rd deduction for self expenses	3,267/-
Monthly Dependency	6,533/-
Annual Dependency	78,396/-
Applying multiplier of '17'	**13,32,732/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to the widow	**40,000/-**
Grand Total	**14,02,732/-**

The award dated 25.11.2016 is modified to the extent that amount of ₹10,41,000/- awarded by the Tribunal is enhanced to ₹14,02,732/-.

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 in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

May 14, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : Yes