

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

**FAO No. 5689 of 2017
Date of decision:- 26.02.2019**

IFFCO Tokio General Insurance Co. Ltd.

---Appellant.

Versus

Meena and Others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Ajay Singla, Advocate,
for the appellant.

Mr.Jitender Nara, Advocate
for respondent Nos. 1 to 3

None for respondent No.5.

AVNEESH JHINGAN J. (Oral)

The award dated 28.03.2017 passed in MACT Case No. 136 of 2015 by the Motor Accident Claims Tribunal, Jhajjar (for short 'the Tribunal') has been challenged by the insurer of Truk bearing registration No.HR-63B-7830 (hereinafter referred to as 'offending vehicle').

The grievances raised in the appeal are that 50% future prospects have wrongly been awarded by the Tribunal instead of 40% and ₹1,25,000/- awarded in respect of conventional heads is on higher side.

The facts of the case are not disputed that a motor vehicular accident took place on 28/29.03. 2015. The accident proved fatal for Parveen. The accident was caused due to rash and negligent driving of the offending vehicle.

In the claim petition filed before the Tribunal, the claimants

contended that deceased was a supervisor in B. M. Enterprises. But the claimants failed to prove occupation and monthly earning of the deceased. The Tribunal assessed the monthly earning of the deceased as ₹6,200/-, 50% future prospects were awarded, 1/3rd deduction for self expenses was made as the deceased was survived by widow & parents and the multiplier of 18 was applied, as the deceased falls in 21 to 25 age group. The Tribunal awarded a sum of ₹ 15,35,069/- alongwith interest @7.5% per annum. The amount awarded included ₹ 1,00,000/- for loss of consortium, ₹ 25,000/- for funeral expenses and ₹ 70,869/- for medical expenses.

Learned counsel for the appellant contends that deceased was not having a permanent job, the Tribunal erred in awarding 50% future prospects. Further, that the amounts awarded under the conventional heads are also on the higher side.

Learned counsel for the claimants though defended the award but could not raise any serious objection with regard to 40% future prospects to be awarded. He contends that the deceased met with an accident on 28/29-03-2015 and remained hospitalised till 02-04-2015, amount spent on treatment was reimbursed but no amount was awarded for medicine expenses.

The deceased was below the age of 40 years and would fall in the category of self employed or having fixed wages. As per the decisions of Supreme Court in **National Insurance Company Ltd. 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 to be awarded. The claimants are entitled to ₹15,000/- each for the loss of estate and funeral expenses. ₹40,000/- are awarded to the widow for loss of

consortium.

It has been proved on record that the deceased remained hospitalised for six days before his death, the hospital bill produced before the Tribunal were re-imbursed. The claimants failed to substantiate expenses incurred on medicines. Considering the fact that during the period of hospitalization certain amount would have been spent for medicines, hence ₹ 25,000/- are awarded for medical expenses.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹ 6,200/- per month
(ii)	40% added towards future prospects	₹ 6,200+2,480=8,680/-
(iii)	1/3 rd deduction towards self expenses	₹ 8,680-2,893=5,787/-
(iv)	Multiplier of 18 applied	₹ 5,787X12X18= 12,49,992/-
(v)	Conventional head (i.e. ₹ 15,000/- for loss of estate, ₹ 15,000/-for funeral expenses and ₹ 40,000/- towards loss of consortium)	₹70,000/-
(vi)	Expesnses towards treatment bills	₹ 70,869/-
(vii)	Expenses towards medical expenses	₹25,000/-
	Total Compensation Awarded	₹ 14,15,861/-

The award dated 28.03.2017 is modified to the extent that amount awarded of ₹ 15,35,069/- by the Tribunal is **reduced** to ₹ 14,15,861/-.

Vide order dated 25.10.2017 recovery of amount beyond ₹6,50,000/- was stayed. The claimants shall be entitled to the balance

amount alongwith interest @ 7.5% per annum from the date of filing the
 Riya 2019.03.05 11:01

claim petition till the realization of the amount.

The appeal is disposed of in the aforesaid terms.

26.02.2019
Riya Grover

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

