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

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**FAO No.68 of 2017 (O&M)
Date of Decision: 21.01.2019**

Nirmal Kaur and another

Appellants

Versus

Sanjay Trehan and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Munish Gupta, Advocate
for the appellants.

Mr. Rajesh Verma, Advocate
for respondent No.3.

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AVNEESH JHINGAN, J (Oral):

The present appeal is for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] for death of Gurmail Singh, aged 52 years. He was employed as Gateman in Indian Railways and was drawing a salary of ₹22,300/- per month. The claimants were widow and three children. The negligence of the driver of vehicle that was involved in the accident was taken as established and the Motor Accident Claims Tribunal, Hoshiarpur [for brevity 'the Tribunal'] awarded ₹21,38,000/- as compensation.

The owner of Maruti Swift Car bearing registration No.

PB-35K-8111 [hereinafter referred to as 'offending vehicle'], driver and insurer (i.e. National Insurance Company Ltd.) have been arrayed as respondents No.1 to 3 respectively in the appeal. Two sons of Gurmail Singh have been arrayed as proforma respondents in the present appeal.

The facts necessary for adjudication of the present appeal are that on 08.12.2013, Gurmail Singh alongwith Charan Dass was going towards village Khuda. Gurmail Singh was going on a cycle and Charan Dass was following him on his motorcycle. On their way, Gurmail Singh's cycle was struck by a rashly and negligently driven offending vehicle. As a result of the accident, he sustained injuries, he was taken to Civil Hospital, Dasuya, where he succumbed to the injuries. FIR No.331, dated 09.12.2013 was registered at Police Station Tanda.

A claim petition was filed under Section 166 of the Act. After considering the facts and appreciating the evidence adduced, the Tribunal held that the accident was caused due to the rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation. The Tribunal considered income of deceased as ₹22,300/- per month, $1/4^{th}$ deduction for self-expenses was made and multiplier of '10' was applied. The Tribunal while awarding the compensation, awarded ₹1,31,000/- under the conventional heads i.e. ₹1,00,000/- for loss of consortium, ₹25,000/- for funeral expenses and ₹6,000/- for loss of estate.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants contends that no future prospects have been awarded and the Tribunal has wrongly applied multiplier of '10' instead of '11'. His grievance is that no interest has been awarded by the Tribunal.

Learned counsel for the insurer while defending the award argues that the amounts awarded under the conventional heads are on the higher side, but he could not raise any serious dispute with regard to grant of future prospects and application of multiplier of '11', in view of settled position of law in cases of ***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.***

The contentions raised by learned counsel for the appellants deserve acceptance. The deceased was a government employee and was 52 years old at the time of accident, having due regard to decision of the Supreme Court in ***Pranay Sethi's*** case (supra), 15% future prospects are awarded.

As there is no dispute between the parties with regard to age of the deceased at the time of accident, thus, in consonance with decision of the Supreme Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** multiplier of '11' is to be applied.

As the quantum of compensation is being re-visited, it would be appropriate that the amounts awarded under the conventional heads are made in consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra). Thus, the appellants 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, compensation is re-calculated as under:

Particulars	**Amount (in ₹)**
Monthly income of the deceased as assessed	22,300/-
15% Future Prospects	3,345/-
Sub Total	25,645/-
1/4th deduction for self expenses	(-) 6,411/-
Monthly Dependency	19,234/-
Annual Dependency	2,30,808/-
Applying multiplier of '11'	**25,38,888/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**26,08,888/-**

The award dated 11.04.2016 is modified to the extent that amount of ₹21,38,000/- awarded by the Tribunal is enhanced to ₹26,08,888/-.

It is pertinent to note here that the Tribunal while awarding compensation has not granted any interest on compensation. The Supreme Court in ***Dharampal and others Vs. U.P. State Road Transport Corporation 2008(12) SCC 208*** held as under:

"8. As per Section 171 of the Motor Vehicle Act, 1988

(hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.

9. In ***National Insurance Company Ltd. Vs. Keshav Bahadur, reported in 2004(2) RCR (Civil) 99: (2004) 2 SCC 370*** *this Court has held that the provisions require payment of interest in addition to compensation already determined. Even though the expression "may"is used, a duty is laid on the Tribunal to consider the question of interest separately with due regard to the facts and circumstances of the case. It was clearly held in the said decision that the provision of payment of interest is discretionary and is not and cannot be bound by rules.*

10. Interest is compensation for forbearance or detention of money, which ought to have been paid to the claimant. No rate of interest is fixed under Section 171 of the Act and the duty has been bestowed upon the court to determine such rate of interest."

The interest to be awarded under Section 171 of the Act is statutory in nature. The Tribunal has given no reason for not awarding the interest. The claimants shall be entitled to 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

January 21st, 2019
pankaj baweja

1. Whether speaking/reasoned : **Yes**/ No
2. Whether reportable : **Yes**/ No