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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.6978 of 2017
Date of Decision: 07.03.2019

Salochana and another

Appellants

Versus

Rajender and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Jainender Saini, Advocate
for the appellants.

Mr. Aman Mittal, Advocate for
Mr. A.S. Sidhu, Advocate
for respondent No.3-Insurance Company.

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AVNEESH JHINGAN, J (Oral):

The award dated 05.05.2017 passed by the Motor Accident Claims Tribunal, Hisar [for brevity 'the Tribunal'] has been assailed by the mother and minor brother of Satbir @ Billu (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. ICICI Lombard General Insurance Company Ltd.) of Bus bearing registration No. HR-39C-0439 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts are not in dispute. A motor vehicular accident took place on 20.05.2016, which proved fatal for Satbir @ Billu, aged 19 years. The accident was caused due to the rash and negligent driving of the offending vehicle.

A claim petition was filed under Section 166 of the Act. It was claimed that the deceased was a motor mechanic and earning ₹30,000/- per month, albeit, they failed to substantiate the occupation and monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹8,000/- per month; ½ deduction for self-expenses was made as the deceased was bachelor and multiplier of '15' was applied, considering the age of mother of the deceased. The Tribunal awarded compensation of ₹7,95,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹50,000/- for loss of love & affection. The owner, driver and insurer of the offending vehicle were held jointly & severally liable to pay the compensation.

Learned counsel for the appellants has raised two issues i.e. (i) no future prospects have been awarded; and (ii) multiplier of '15' has wrongly been applied considering the age of mother of the deceased.

Learned counsel for the insurer argues that the amounts awarded under the conventional heads be made in consonance with the decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*** and no amount be awarded for loss of love & affection.

The deceased was 19 years old at the time of accident and would fall under the category of self-employed or a person having fixed wages. In consonance with the decision of the Supreme Court in ***Pranay Sethi's case*** (supra) and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,*** 40% future prospects are awarded.

As per decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** multiplier of '18' is applied. The issue that multiplier is to be applied considering the age of the deceased and not the age of claimants is no longer *res-integra.* 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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> *(emphasis supplied)*

As the quantum of compensation is being re-visited, the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in ***Pranay Sethi's*** case (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of love & affection.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	8,000/-
40% Future Prospects	3,200/-
Sub Total	11,200/-
½ deduction for self expenses	5,600/-
Monthly Dependency	5,600/-
Annual Dependency	67,200/-
Applying multiplier of '18'	**12,09,600/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Grand Total	**12,39,600/-**

The award dated 05.05.2017 is modified to the extent that amount of ₹7,95,000/- awarded by the Tribunal is enhanced to ₹12,39,600/-

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

March 07, 2019
pankaj baweja

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