

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

FAO No.4475 of 2018

Date of Decision: 13.03.2019

Lakhbir Kaur and others

Appellants

Versus

Gursahib Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Punit Jain, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

The award dated 02.02.2018 passed by the Motor Accident Claims Tribunal, Chandigarh [for brevity 'the Tribunal'] has been assailed by widow, two minor children and mother of Beant Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

[2] The factum of the accident is not in dispute. A motor vehicular accident took place on 02.12.2016 and the same proved fatal for Beant Singh, aged 24 years. The accident was caused due to the rash and negligent driving of the Truck bearing registration No. PB-46M-3303 [hereinafter referred to as 'offending vehicle']. The Tribunal after considering the facts and appreciating the evidence adduced held owner, driver and insurer of the offending

vehicle jointly and severally liable to pay the compensation.

[3] In the claim petition it was pleaded that the deceased was working as *Munim* with Aditya Trading Company (Merchants & Commission Agents), Shop No.103-B, New Grain Market, Tarn Taran. It was claimed that he was earning ₹15,000/- per month and was also earning ₹10,000/- by doing the farming work. The claimants failed to adduce any evidence with regard to occupation and earning of the deceased. The Tribunal considered him an unskilled labourer and assessed his monthly earning as ₹7,175/-; 40% future prospects were awarded; 1/4th deduction for self-expenses was made and multiplier of '18' was applied. The Tribunal awarded ₹16,97,290/- alongwith interest @ 7.5% per annum. The amount awarded included ₹70,000/- under the conventional heads.

[4] Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

[5] Learned counsel for the appellants contends that the deceased was 24 years old, he was survived by young widow, two minor children and old mother. The income assessed by the Tribunal is on the lower side.

[6] Learned counsel for the insurer while defending the award argues that the claimants failed to prove occupation and monthly earning of the deceased. The Tribunal rightly relied upon the minimum wages of an unskilled labourer while assessing the income of the deceased as ₹7,175/- per month.

[7] In the case where the claimants failed to

prove occupation and monthly earning of the deceased, one of the yardstick is to rely upon the minimum wages prevalent in the State at the time of accident. In the present case, the deceased was a young man, working as a *Munim* and was survived by a widow, two minor children and old mother, taking the facts in totality and having a clue from the minimum wages of semi-skilled labourer, the income of the deceased is assessed as ₹8,100/- per month.

[8] There is no dispute between the parties with regard to future prospects, multiplier applied, deduction made for self-expenses and amounts awarded under the conventional heads.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	8,100/-
40 % Future Prospects	3,240/-
Sub Total	11,340/-
1/4 th deduction for self expenses	2,835/-
Monthly Dependency	8,505/-
Annual Dependency	1,02,060/-
Applying multiplier of '18'	18,37,080/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Loss of consortium to the widow	40,000/-
Grand Total	19,07,080/-

[10] The award dated 02.02.2018 is modified to the extent that amount of ₹16,97,290/- awarded by the Tribunal is enhanced to ₹19,07,080/-.

[11] 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.

[12] The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

March 13, 2019

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