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

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**FAO No.481 of 2018 (O&M)
Date of Decision: 22.01.2019**

Gurpreet Singh

Appellant

Versus

Chanan Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.S. Manaise, Advocate
for the appellant.

Mr. Punit Jain, Advocate
for the Insurance Company.

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

The present appeal has been preferred seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] for death of Arjun Singh, aged 62 years. He was claimed to be a *Granthi* and was earning ₹7,500/- per month. The Motor Accident Claims Tribunal, Gurdaspur [for brevity 'the Tribunal'] assessed monthly earning of the deceased as ₹4,500/- per month. The claimants were widow and son of the deceased. The negligence of the driver of the vehicle that was involved in the accident was taken as established and the Tribunal has assessed compensation as ₹4,27,000/- alongwith interest @ 7.5% per annum vide award dated 01.07.2017.

The driver, owner and insurer i.e. [Cholamandalam MS

General Insurance Company Ltd.] of truck bearing registration No. PB-65G-0719 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal. Widow of the deceased is proforma respondent through her LR.

The facts necessary for adjudication of the present appeal are that on 17.09.2016, Arjun Singh was going from Fatehgarh Churian to Village Shamsherpur Khurd on Scooter bearing registration No. PB-18Y-9417. On his way, the Scooter was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Arjun Singh fell down and was crushed under the tyre of the offending vehicle. FIR No. 43, dated 17.09.2016 was registered.

A claim petition was filed under Section 166 of the Act. It was pleaded that the deceased was performing duties of *Granthi* in a *Gurudwara* and was getting a salary of ₹7,500/- per month. It was further claimed that he was doing the work of a milk vendor and his total income was ₹40,000/- per month. The claimants failed to substantiate monthly earning of the deceased. The President of *Gurudwara Prabhandak* Committee was examined as CW-3. He produced the Salary Certificate of the deceased but did not produce any documentary proof of actual payment of salary to the deceased. The Tribunal assessed monthly earning of the deceased as ₹4,500/- per month; 1/3rd deduction for self-expenses was made and multiplier of '7' was applied. The Tribunal awarded ₹1,00,000/- for loss of consortium, ₹50,000/- for loss of estate and ₹25,000/- for funeral expenses.

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

The only grievance raised by learned counsel for the appellant is that the Tribunal erred in assessing monthly earning of the deceased as ₹4,500/- per month. He contends that he should have been treated as an unskilled labourer and minimum wages prevalent in the State of Punjab at the time of accident should be considered for awarding compensation.

Learned counsel for the insurer while defending the award argues that the claimants failed to substantiate occupation and monthly earning of the deceased. He further argues that the amounts awarded under the conventional heads are on the higher side.

There is no dispute between the parties with regard to age of the deceased i.e. 62 years at the time of accident; 1/3rd deduction made for self-expenses and multiplier of '7' applied.

The only contention raised by learned counsel for the appellant that the compensation should be calculated by considering the minimum wages of an unskilled labourer deserves acceptance. In cases where the claimants failed to prove the occupation and monthly earning of the deceased, the safest yardstick is to rely upon the minimum wages prevalent in the State at the time of accident. The minimum wages for an unskilled labourer at the time of accident were ₹7,458/-, the same are rounded off to ₹7,500/- for the calculation purpose.

As the quantum of compensation is being revisited, it would be appropriate that the amounts to be awarded under the conventional heads are made in consonance with the decision of the

Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.*** 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, compensation is re-calculated as under:-

Particulars	**Amount (in ₹)**
Monthly income of the deceased as assessed	7,500/-
1/3rd deduction for self expenses	2,500/-
Monthly Dependency	5,000/-
Annual Dependency	60,000/-
Applying multiplier of '7'	**4,20,000/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to widow	**40,000/-**
Grand Total	**4,90,000/-**

The award dated 01.07.2017 is modified to the extent that amount of ₹4,27,000/- awarded by the Tribunal is enhanced to ₹4,90,000/-.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is disposed of in afore mentioned terms.

[AVNEESH JHINGAN]
JUDGE

January 22nd, 2019
pankaj baweja

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