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

**FAO No. 5130 of 2018
DECIDED ON: FEBRUARY 28, 2019**

SHYAM SINGH AND OTHERS

APPELLANTS

VERSUS

DEVENDER AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rohit Rana, Advocate for
Mr. S.S. Cooner, Advocate
for the appellants.

Mr. S.P. Arora, Advocate and
Mr. Manbir Singh, Advocate
for respondent No.3-Insurance Company.

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

The award dated 23.03.2018 passed by the Motor Accident Claims Tribunal, Faridabad (for brevity 'the Tribunal') has been assailed in appeal by the parents and sister of Gaurav Parmar (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, registered owner and insurer (i.e. The Oriental Insurance Company Ltd.) of Bus bearing registration No. DL-1-PD-2310 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The brief facts necessary for the adjudication of the present appeal are that on 10.11.2016, Gaurav Parmar was going from his house towards Ballabgarh on motorcycle bearing registration No. DL-3S-DC-9365. On the way, the motorcycle was hit the offending vehicle. As a result of the impact he fell down and his head was crushed under the tyre of the offending vehicle. He died at the spot. FIR No. 889, dated 10.11.2016 was registered at Police Station Sector 7, Faridabad.

A claim petition was filed under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal assessed monthly earning of the deceased as ₹15,500/-; 40% future prospects were awarded, 1/2 deduction for self-expenses was made and considering the age of the claimants, multiplier of '14' was applied.

The Tribunal awarded a sum of ₹18,77,800/- alongwith interest @ 6% per annum. The amount awarded included ₹15,000/- for funeral expenses and ₹40,000/- for love and affection.

Learned counsel for the appellants contends that multiplier of '14' has wrongly been applied considering the age of the claimants. His grievance is that no amount has been awarded for loss of estate.

Learned counsel for the insurer while defending the award resisted any further enhancement. He contends that no amount should be awarded for loss of love and affection. No other issue has been raised.

The contention raised by learned counsel for the appellants deserves acceptance. There is no dispute between the parties with regard to income of the deceased assessed by the Tribunal, age of deceased, and 40% future prospects.

The deceased was 19 years of age, multiplier of '18' is to be applied, in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.***

The issue regarding application of multiplier considering the age of the deceased and not as per age of the 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)*

Having due regard to the decisions of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157,*** claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate.

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

	Head	**Compensation awarded**
(i)	Monthly Income	₹ 15,500/- per month
(ii)	Future prospects at 40%	₹ 6200/- per month
(iii)	Total Income	₹ 21,700/- per month
(iv)	Deduction of personal expenses	₹ 10,850/- (i.e. 1/2 of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	10,850x12x18= ₹23,43,600/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹23,73,600/-

The award dated 23.03.2008 is modified to the extent that amount of ₹18,87,000/- awarded by the Tribunal is enhanced to ₹23,73,600/-.

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.

(AVNEESH JHINGAN)
JUDGE

FEBRUARY 28, 2019
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Whether speaking/reasoned ***Yes***
Whether reportable ***Yes***