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

**FAO No.5533 of 2018 (O&M)
Date of Decision : 02.05.2019**

Kulwinder Kaur and another

Appellants

Versus

Balwinder Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. N.K. Vadhera, Advocate
for the appellants.

Mr. V.K. Garg, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral)

The award dated 08.03.2018 passed by the Motor Accident Claims Tribunal, Gurdaspur [for brevity 'the Tribunal'] has been assailed by parents of Amrik Singh 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. National Insurance Company Ltd.) of Bus bearing registration No. PB-07J-9697 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The issues arising in the present appeal are that (i) the income of the deceased assessed by the Tribunal is less than the minimum wages for an unskilled labourer prevalent in the State of Punjab at the time of accident; (ii) no future prospects have been awarded and (iii) no amount be awarded for loss for love and affection.

The factum of the accident is not disputed by the parties. A motor vehicular accident took place on 05.06.2017, same proved fatal for Amrik Singh. The accident was the result of rash and negligent driving of the offending vehicle. FIR No.28, dated 05.06.2017 was registered. The insurer of the offending vehicle was held liable to pay the compensation.

In the claim proceedings, it was claimed that the deceased was working as a Labourer and earning ₹15,000/- per month. The claimants failed to prove the monthly earning of the deceased. The Tribunal assessed monthly income of the deceased as ₹4,500/- per month, made $\frac{1}{2}$ deduction for self-expenses and applied multiplier of '18', considering age of the deceased as 21 years. The Tribunal awarded compensation of ₹5,56,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- were awarded for loss of love and affection.

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

Learned counsel for the appellants contends that

minimum wages for an unskilled labourer in the State of Punjab at the time of accident were ₹7,568/- and the income assessed by the Tribunal is much less than minimum wages. His grievance is that no future prospects have been awarded.

Learned counsel for the insurer states that claimants failed to prove the monthly earning of the deceased and no amount is to be awarded for loss of love and affection.

In cases where the claimants failed to prove monthly earning of the deceased, the safest yardstick is to rely upon the minimum wages prevalent at the relevant time. The minimum wages for an unskilled labourer were ₹7,568/-, the same is rounded off to ₹7,600/- for calculation purpose.

Having due regard to the decision of the Supreme Court 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**, 40% future prospects are awarded, as the deceased was below 40 years of age and fell in the category of self-employed or a person having fixed wages. The claimants are also entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of love and affection.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	7,600/-
40% Future Prospects	3,040/-
Sub Total	10,640/-
½ deduction for self expenses	5,320/-
Monthly Dependency	5,320/-
Annual Dependency	63,840/-
Applying multiplier of '18'	11,49,120/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Grand Total	11,79,120/-

The award dated 08.03.2018 is modified to the extent that amount of ₹5,56,000/- awarded by the Tribunal is enhanced to ₹11,79,120/-.

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

May 02, 2019
pankaj baweja

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes