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

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FAO No.5563 of 2018
Date of Decision: 09.05.2019

Mohinder Kaur and others

Appellants

Versus

Sandeep Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. B.S. Sudan, Advocate
for the appellants.

Ms. Vandanaa Malhotra, Advocate
for respondent No.3.

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AVNEESH JHINGAN, J (Oral):

The award dated 20.04.2018 passed by the Motor Accident Claims Tribunal, Ludhiana [for brevity 'the Tribunal'] has been assailed by widow, parents and three children of Jarnail 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. Tata AIG General Insurance Company Ltd.) of Mahindra TUV 300 bearing registration No. PB-10FL-8119 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum of accident is not disputed by the parties.

A motor vehicular accident took place on 12.06.2016, the accident proved fatal for Jarnail Singh, aged 38 years. The accident was result of 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.

In the claim proceedings, it was pleaded that the deceased was working as a Labourer with a Contractor but the claimants failed to prove occupation and monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹6,000/- per month; 40% future prospects were awarded; 1/4th deduction for self-expenses was made and multiplier of '15' was applied. The Tribunal awarded compensation of ₹13,12,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹70,000/- under the conventional heads.

The only issue raised in the present appeal is that the deceased was treated as an unskilled labourer but income assessed is less than the minimum wages prevalent in the State of Punjab at the time of accident. No other dispute has been raised by either party.

Learned counsel for the insurer defends the income assessed and argues that the claimants failed to prove occupation and earning of the deceased.

In cases where the claimants failed to prove occupation and earning of the deceased, one of the safest yardstick is to rely upon minimum wages prevalent in State at relevant time. There is no challenge to the fact that the deceased was working as a labourer. The minimum wages for an unskilled labourer were ₹7,210/- per month.

The compensation is re-calculated considering the income as ₹7,210/- per month as under:-

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	7,210/-
40% Future Prospects	2,884/-
Sub Total	10,094/-
1/4th deduction for self expenses	2,523/-
Monthly Dependency	7,571/-
Annual Dependency	90,852/-
Applying multiplier of '15'	**13,62,780/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium to the widow	**40,000/-**
Grand Total	**14,32,780/-**

The award dated 20.04.2018 is modified to the extent that amount of ₹13,12,000/- awarded by the Tribunal is enhanced to ₹14,32,780/-.

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 09, 2019
pankaj baweja

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