

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

**FAO No. 8715 of 2017
DECIDED ON: MAY 15, 2019**

BARINDER KAUR AND ANOTHER

.....APPELLANTS

VERSUS

PARAMJIT SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vikram Bali, Advocate
for the appellants.

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

AVNEESH JHINGAN, J (Oral)

The award dated 28.03.2017 passed by the Motor Accident Claims Tribunal, Rupnagar (for brevity 'the Tribunal') has been assailed by the children of Premjit Kaur (deceased), 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 truck/tipper bearing registration No. PB-12-T-6382 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum of the accident is not disputed by the parties.

A motor vehicular accident took place on 28.11.2015. The accident proved fatal for Premjit Kaur. FIR No. 113, dated 29.11.2015 was registered. 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 proved that the deceased was working as helper in Tenon Pharmaceuticals Ltd. and her income was proved as ₹6250/- per month. The Tribunal rounded off the said amount and took the monthly income of the deceased as ₹6200/-; 1/2 deduction for self-expenses was made and multiplier of '14' was applied. The Tribunal awarded compensation of ₹5,95,800/- alongwith interest @ 6% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹50,000/- 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 has raised the following grievances:

1. No future prospects have been awarded;
2. 1/2 deduction for self-expenses has wrongly been made by the Tribunal, as the deceased was survived by two dependants;
3. No amount has been awarded for loss of estate.

Learned counsel for the insurer contends that the amount

awarded for funeral expenses is on the higher side and no amount awarded for loss of love and affection. He resisted any further enhancement.

There is no challenge to the income, age of the deceased and multiplier applied of '14'.

As the claimants were able to prove the monthly salary of the deceased as ₹6250/- before the Tribunal, the compensation shall be calculated considering the same.

Having due regard to the decisions of the Supreme Court in *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,* 25% future prospects are awarded, as the deceased was in the age group of 40-50 and fell in the category of self-employed or person having fixed wages.

As the quantum of compensation is being revisited, it would be appropriate that compensation under the conventional heads be awarded as per decision of the Supreme Court in *Pranay Sethi's case* (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of love and affection.

In consonance with the decision of the Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21;* 1/3rd deduction for self-expenses is made, as the deceased was survived by two dependants.

In view of above discussion, the compensation is re-

calculated as under:-

	Head	Compensation awarded
(i)	Monthly Income	₹ 6250/- per month
(ii)	Future prospects at 25%	₹ 1562/- per month
(iii)	Total Income	₹ 7812/-
(iv)	Deduction of personal expenses	₹ 2604/- (i.e. 1/3 rd of total income)
(v)	Multiplier	14 (as per age of deceased)
(vi)	Loss of income	5208x12x14= ₹8,74,944/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹9,04,944/-

The award dated 28.03.2017 is modified to the extent that amount of ₹5,95,800/- awarded by the Tribunal is enhanced to ₹9,04,944/-. 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 15, 2019
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Whether speaking/ reasoned : *Yes*
Whether reportable : *YesNo*