

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6573 of 2018 (O&M)

Date of Decision: 29.04.2019

Smt. Sonia @ Babli and others

.....Appellants

Versus

Samin Khan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.K. Singal, Advocate
for the appellants.

AVNEESH JHINGAN, J.(oral)

The award dated 31.5.2018 passed by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') has been assailed by the claimants seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The appellants are the widow, two minor children and parents of Pawan (deceased). The driver of Truck Trolla bearing registration No.RJ-14-GD-3698 (for short 'the offending vehicle') owner and insurer i.e. The Oriental Insurance company Ltd., have been arrayed as respondents No.1 to 3 respectively.

The factum with regard to accident is not disputed by the parties. In a motor vehicular accident that took place on 9.4.2015, Pawan Kumar aged 29 years while driving motor cycle bearing registration No. HR-60-E-8982 lost his life as the motor cycle was hit by the offending vehicle. As a result of impact he sustained injuries and was taken to Civil Hospital, Panipat

from where he was shifted to Dr. Prem Hospital, where he succumbed to

injuries. FIR No.179 dated 9.4.2015 was registered at Police Station Sadar Panipat. Before the Tribunal it was proved that the accident was result of rash and negligent driving of the offending vehicle. The owner, driver and insurer were held jointly and severally liable to pay compensation.

In the claim proceedings, it was pleaded that the deceased was working as a driver and was also doing agricultural work. His monthly income was claimed as ₹ 18,000/- per month. The claimants failed to prove the occupation and earning of the deceased. The Tribunal assessed the monthly earning of the deceased as ₹ 9000/-, 40% future prospects were awarded in consonance with the decision of the Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157*, as the deceased was 29 years of age and fell in the category of having fixed wages or self-employed

In consonance with the decision of the Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21*, 1/4th deduction for self-expenses was made and multiplier of 17 was applied. The Tribunal awarded a sum of ₹ 17,91,250/- alongwith interest at the rate of 7.5% per annum. The amount awarded included ₹ 70,000/- under conventional heads.

Lerened counsel for the appellants argues that the income, assessed by the Tribunal, is on lower side.

The contention raised is not well founded. In the claim proceedings, the claimants failed to prove the occupation and monthly earning of the deceased. In cases where there is no evidence on record with regard to earning and occupation of the deceased, one of the yardstick to be considered is the minimum wages prevalent at the relevant time. The income

unskilled labourer prevalent in the State at the time of accident. The Tribunal in order to arrive at just and equitable compensation had taken into consieration the fact in entirety i.e. the age of the deceased and that he was survived by young widow and two minor children. Nothing has been shown to incline this Court for interfering in the income assessed by the Tribunal.

No other issue has been raised.

The appeal is accordingly dismissed.

29.04.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No