

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 7083 of 2018
DECIDED ON: MAY 21, 2019

MANPREET KAUR AND OTHERS

APPELLANTS

VERSUS

ARJAN SINGH AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Naveen Sharma (Moudgil), Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 27.02.2018 passed by the Motor Accident Claims Tribunal, Rupnagar (for brevity 'the Tribunal') in MACT Case No. 118/03.05.2016 has been assailed in appeal by the parents and brother of Mandeep Singh (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. SBI General Insurance Company Ltd.) of Trola bearing registration No. PB-10-DZ-6134 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts necessary for the adjudication of present appeal are that on 11.03.2016, Mandeep Singh was returning on motorcycle bearing registration No. PB-12-Z-4029 to his village after attending his college. When he reached in the area of Head Works Arson, the offending vehicle going ahead suddenly applied the brakes without any signal and the rear lights of the offending vehicle were not working, as a result of which the motorcycle struck against the offending vehicle. Mandeep Singh sustained grievous injuries and was taken to Civil Hospital, Rupnagar. He was discharged on 15.03.2016 and was again rushed to Parmar Nursing Home where he was operated upon and succumbed to his injuries on 17.03.2016. FIR No. 0032, dated 18.04.2016 was registered.

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 driver, owner 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 19 years old at the time of accident and was a final year student of Mechanical Engineering at Rayat and Bahra Institute. Sh. Lakshmi Kant, Sr. Superintendent, Rayat Polytechnic College deposed and produced the record of the admission of Mandeep Singh. The claimants pleaded that he was earning ₹20,000/- per month but failed to prove the said fact. The Tribunal assessed monthly earning of the deceased as ₹6000/-; 1/2 deduction for self-expenses was made as the deceased was un-married and multiplier of '18' was applied. The Tribunal awarded a sum of ₹9,37,200/-

alongwith interest @9% per annum. The amount awarded included ₹15,000/- for funeral expenses and for loss of estate.

Heard learned counsel for the parties and perused the record.

Learned counsel for the appellants contends that the income assessed by the Tribunal is on the lower side as the deceased was at his prime youth and was about to complete his course in Engineering.

Learned counsel for the insurer while defending the award resisted any further enhancement. He contends that the Tribunal has rightly assessed the monthly income of the deceased as ₹6000/- per month, as the deceased was merely a student and was not employed.

There is no dispute between the parties with regard to future prospects awarded, deduction made for self-expenses and multiplier applied of '18'.

In the motor vehicular accident cases, the courts are duty bound to award just and equitable compensation. This duty becomes more onerous in cases where the deceased is a student, as it is impossible to predict that what the future held for the deceased. In the present case the deceased was a final year student of Mechanical Engineering, he was just 19 years old, in such circumstances it would not be appropriate to equate him with an unskilled labourer.

The Supreme Court in “M.R. Krishna Murthi vs. New India Assurance Co. Ltd. and others, 2019 (4) Scale 362, has carved out principles for dealing with the cases where the deceased was a student. It was held as under:-

“23. From the conjoint reading of the aforesaid judgments, inter

alia, following principles can be culled out which would be relevant for deciding the instant appeal:

(i) In those cases where the victim of the accident is not an earning person but a student, while assessing the compensation for loss of future earning, the focus of the examination would be the career prospect and the likely earning of such a person in future. For example, where the claimant is pursuing a particular professional course, the poseer would be: what would have been his income had he joined a service commensurating with the said course. That can be the future earning.

(ii) There may be cases where the victim is not, at that stage, doing any such course to get a particular job. He or she may be studying in a school. In such a case, future career would depend upon multiple factors like the family background, choice/interest of the complainant to pursue a particular career, facilities available to him/her for adopting such a career, the favourable surrounding circumstances to see which would have enabled the claimant to successfully pick up the said career etc.

If the chosen field is employment, then the future earning can be taken on the basis of salary and allowances which are payable for such calling. In case, career is a particular profession, the future earning would depend on host of other factors on the basis of which chances to achieve success in such a profession can be ascertained.

(iii) There may be cases like Deo Patodi where even a student, the claimant would have made earnings on part-time basis or would have received offer for a particular job. In such cases, these factors would also assume relevance.

(iv) After ascertaining the likely earning of the victim in the aforesaid manner, the nature of injuries and disability suffered as a result thereof would be kept in mind while determining as to how much earning has been affected

thereby. Here, impact of injuries on functional disability is to be seen. In case of death of victim, it would result in total loss of earning. In the case of injuries, the nature of disability becomes important. Such an exercise was undertaken in N. Manjegowda case.”

The Supreme Court held that while assessing the compensation loss of future earning, career prospects have to be looked into, especially keeping in view of the professional course being pursued and as to what would be the income if the deceased would have joined the service.

In the case in hand the deceased was a final year student of Mechanical Engineering. Considering the above-stated facts the monthly income of the deceased is assessed as ₹10,000/-.

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

	Head	Compensation awarded
(i)	Monthly Income	₹ 10,000/- per month
(ii)	Future prospects at 40%	₹ 4000/- per month
(iii)	Total Income	₹ 14,000/- per month
(iv)	Deduction of personal expenses	₹ 7000/- (i.e. 1/2 of total income)
(v)	Multiplier	18 (as per age of deceased)
(vi)	Loss of income	7000x12x18= ₹15,12,000/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
	Total Compensation awarded	₹15,42,000/-

The award dated 27.02.2018 is modified to the extent that amount of ₹9,37,200/- awarded by the Tribunal is enhanced to ₹15,42,000/-.

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

MAY 21, 2019
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>