

223

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

**FAO No.1491 of 2016 (O&M)
Date of Decision: 12.03.2019**

Gujari Devi and others

Appellants

Versus

Surender and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rishab Lohan, Advocate for
Mr. R.N. Lohan, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 19.05.2015 passed by the Motor Accident Claims Tribunal, Jind [for brevity 'the Tribunal'] has been assailed by the widow and two minor children of Dalbir Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

[2] The driver-cum-registered owner and insurer (i.e. Chola Mandlam MS General Insurance Company Ltd.) of three-wheeler bearing registration HR-56A-5487 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 and 2 respectively.

[3] The two issues involved in the present appeal are that (i) deceased was 50 years and 4 months old at the time of accident and as such multiplier of '11' has wrongly been applied instead of '13' and; (ii) amounts under the conventional heads are not awarded as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.**

[4] The facts of the case are not in dispute. A motor vehicular accident took place on 21.08.2013. The accident was caused due to the rash and negligent driving of the offending vehicle and the same proved fatal for Dalbir Singh. The deceased was Ex-Serviceman from Indian Army and thereafter he was doing service as Security Guard in M/s India Gypsum, Jind. His income was assessed as ₹5,460/-; 15% future prospects were awarded; 1/3rd deduction for self-expenses was made and multiplier of '11' was applied. It had come on record that his date of birth was 05.05.1963. The Tribunal awarded a sum of ₹7,02,552/- alongwith interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium; ₹25,000/- for loss of care & guidance and ₹25,000/- for funeral expenses.

[5] Learned counsel for the appellants contends that the deceased was 50 years and 4 months old at the time of accident and would come in the age group of 45-50 years, thus multiplier of '11' has wrongly been applied.

[6] Learned counsel for the insurer argues that the

amounts awarded under the conventional heads are on the higher side and same be awarded as per decision of the Supreme Court in **Pranay Sethi's** case (supra).

[7] The contention raised by learned counsel for the appellants that the deceased was 50 years and 4 months old at the time of accident and would come in the age group of 45-50 years, deserves acceptance in view of settled proposition of law by the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21**, which has been subsequently approved by the Supreme Court in **Pranay Sethi's** case (supra). A table has been specifically given by the Supreme Court in which the column of age is not overlapping. It deals with age 46-50 and 51 to 55. Meaning thereby, that anybody below 51 years of age would fall within the age group of 46-50.

[8] There is no dispute with regard to the fact that the deceased was 50 years and 4 months old and not 51 years, hence multiplier of '13' is applied.

[9] As the quantum of compensation is being revisited, the amounts under the conventional heads are awarded as per the 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. ₹40,000/- are awarded to the widow for loss of consortium. No amount is awarded for loss of love & affection and loss of care & guidance.

[10] In view of above discussion, compensation is re-

calculated as under:-

Particulars	Amount (in ₹)
Loss of dependency after making deduction for self-expenses (as calculated by the Tribunal)	50,232/-
Applying Multiplier of '13'	6,53,016/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Loss of consortium to the widow	40,000/-
Total Compensation	7,23,016/-

[11] The award dated 19.05.2015 is modified to the extent that amount of ₹7,02,552/- awarded by the Tribunal is enhanced to ₹7,23,016/-.

[12] The claimants shall be entitled to the enhanced amount alongwith interest as awarded by the Tribunal from the date of filing of the claim petition till realization of the amount.

[13] The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

March 12, 2019

pankaj baweja

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes