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

**FAO No.4315 of 2018 (O&M)
Date of Decision: 21.01.2019**

Brij Mohan and others

Appellants

Versus

Gian Chand and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dinesh Saini, Advocate for
Mr. Pritam Saini, Advocate
for the appellants.

Mr. Shubham Jain, Advocate for
Mr. Suman Jain, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The present appeal is for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] for death of Vishwas, aged 16 years. He was a student of Class 10+1 and his monthly income was assessed as ₹7,000/-. The claimants were the parents and minor sister of the deceased. The Motor Accident Claims Tribunal, Ambala [for brevity 'the Tribunal'] has awarded compensation amounting to ₹7,05,000/- alongwith interest @ 7.5% per annum.

The owner-cum-driver and insurer (i.e. United India Insurance Company Ltd.) of motor cycle bearing registration No. HR-05Q-2749 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 and 2 respectively in the appeal.

The facts necessary for adjudication of the present appeal are that on 24.10.2014, Vishwas was pillion rider on motor cycle bearing registration No. HR-01AC-3673, which was being driven by his uncle Tarsem Kumar. When they reached near Shahpur Over Bridge, the motorcycle was struck by a rashly and negligently driven offending vehicle. As a result of the impact, riders of the motorcycle suffered grievous injuries and were taken to Civil Hospital, Ambala City. On the way to the hospital, Vishwas succumbed to the injuries. FIR was registered.

A claim petition was filed under Section 166 of the Act. After considering the facts and appreciating the evidence adduced, the Tribunal held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner-cum-driver and insurer of the offending vehicle were held liable to pay the compensation.

In the claim petition, it was pleaded that the deceased was 16 years old at the time of accident and was a student of class 10+1. The Tribunal assessed monthly income of the deceased as ₹7,000/- per month, ½ deduction for self-expenses was made and considering the age of parents of the deceased, multiplier of '15' was applied. The Tribunal awarded ₹25,000/- for funeral expenses

and ₹50,000/- for loss of love and affection.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants contends that no future prospects have been awarded and multiplier has been wrongly applied considering the age of parents of the deceased.

Learned counsel for the insurer while defending the award argues that the amount awarded for funeral expenses is on the higher side and no amount should have been awarded for loss of love and affection, but he could not raise any serious dispute regarding future prospects in view of settled position of law in cases of **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.**

There is no dispute between the parties with regard to income assessed; age of the deceased and ½ deduction made for self-expenses.

In view of decision of the Supreme Court in **Pranay Sethi's** case (supra), 40% future prospects are awarded.

The Tribunal erred in applying multiplier considering the age of parents of the deceased. In consonance with the decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21.** multiplier of '18' is to be applied as the deceased was 16 years old at the time of accident.

The issue that multiplier is to be applied considering the age of

deceased is no longer res-integra. The Supreme Court in the case of Sube Singh and another vs. Shyam Singh (Dead) and others; 2018 (3) SCC 18 has held as under:

“On the basis of the finding recorded by the Tribunal and affirmed by the High Court, it is evident that the deceased was 23 years of age on the date of accident i.e. 22.09.2009. He was unmarried and his parents who filed the petition for compensation were in the age group of 40 to 45 years. The High Court, relying on the decision in the case of Ashvinbhai Jayantilal Modi (supra), held that multiplier 14 will be applicable in the present case, keeping in mind the age of the parents of the deceased. The legal position, however, is no more res integra. In the case of Munna lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependants.”

As the quantum of compensation is being re-visited, it would be appropriate that the amounts awarded under the conventional heads, are made in consonance with the decision of the Supreme Court in Pranay Sethi's case (supra). The appellants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount can be awarded for loss of love and affection.

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

Particulars	Amount (in ₹)
Monthly income of the deceased as assessed	7,000/-
40% Future Prospects	2,800/-
Sub Total	9,800/-
1/2 deduction for self expenses	4,900/-
Monthly Dependency	4,900/-
Annual Dependency	58,800/-
Applying multiplier of '18'	10,58,400/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Grand Total	10,88,400/-

The award dated 15.03.2017 is modified to the extent that amount of ₹7,05,000/- awarded by the Tribunal is enhanced to ₹10,88,400/-.

The claimants shall be entitled to 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

January 21st, 2019
pankaj baweja

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|------------------------------|---|-----------------|
| 1. Whether speaking/reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |