

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

FAO No. 1964 of 2002 (O&M)

Date of Decision:- 12.12.2017

Sushma Rani & Ors.

....Appellants

Versus

Gurmukh Singh & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Satya Vir Singh Yadav, Advocate, for the appellants.

Mr. J.K. Goyal, Advocate, for respondent Nos. 1 and 2.

Mr. Harsh Aggarwal, Advocate,
for respondent No.3 – Insurance Co.

AVNEESH JHINGAN, J. (Oral)

Present appeal has been filed against award dated 14.01.2002 passed by Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') in MACT Case No. 26 of 2001.

The record of this appeal was burnt and from the salvaged record of the partially burnt case, the same was reconstructed subject to all just exceptions and further verification.

Azad Singh, 26 years lost his life in a motor vehicular accident that occurred on 09.02.2001. The accident involved a car bearing registration No. DL-2CD-4371 and another vehicle bearing registration No. PB-10-AL-1950 (for short, 'the offending vehicle'). The offending vehicle was being driven rashly and negligently and it struck against the car as a result of which Azad Singh lost his life.

A claim petition under Section 166 of the Motor Vehicles Act,

1988 (for short, 'the Act') was filed by the legal heirs of the deceased. The Tribunal after appreciating the facts and considering the evidence produced awarded a sum of Rs.3,71,000/- along with interest @12% per annum. The amount awarded included Rs.3800/- for funeral expenses.

The present appeal has been filed for enhancement of the compensation.

I have heard learned counsel for the parties and perused the paper-book and the relevant documents produced by the counsel for the parties.

The facts have not been disputed by either of the parties with regard to involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased and the multiplier applied.

Learned counsel for the appellants has argued that no future prospects have been awarded while awarding the compensation. The amount awarded for funeral expenses is also on the lower side. No amount has been awarded for loss of consortium and loss of estate.

Learned counsel for the insurance company resisted any enhancement and stated that the accident was of 2001 and the amounts awarded are just and equitable.

The contentions raised by learned counsel for the appellants deserve acceptance in view of the law laid down by the Hon'ble Apex Court in *National Insurance Co. Ltd. Vs. Parney Sethi, SLP (Civil) 25590 of 2014*, decided on 31.10.2017

Hon'ble Apex Court in *National Insurance Co. Ltd.* (Supra) has held that where the deceased was below 40 years of age; was self-employed or having a fixed salary, 25% future aspects should be awarded. It has been

held that Rs.70,000/- (i.e. Rs.15,000/- for loss of funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- of loss of consortium) is to be awarded under the conventional heads.

Accordingly, Rs. 70,000/- is awarded under the conventional heads. Since there is no dispute with regard to loss of dependency as calculated by the Tribunal, 40% of Rs.3,67,200/- is awarded for future prospects i.e. 1,46,880/-.

The award dated 14.01.2002 is modified to the extent that the amount of Rs.3,71,000/- awarded by the Tribunal is enhanced by Rs.2,13,080/-.

The appellants would be entitled to the enhanced amount along with interest @6% per annum from the date of filing of the claim petition till realisation.

The appeal is partly allowed in the aforesaid terms.

December 12, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No