

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

FAO-4477 of 2012 (O&M)

Date of decision: 19.12.2017

Suman Sharma and others

.... Appellants

Versus

Balbir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Deepak Bhardwaj, Advocate
for the appellants.

None for respondents No. 2 and 5.

Mr. Suvir Dewan, Advocate
for respondent No.4.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 04.04.2012 passed by Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') in MACT Case No. 21-T of 2008/10.03.2007.

On 03.02.2007 Anil Sharma aged 46 years met with a motor vehicular accident near bus stand of village Rajpura on Sangrur-Patiala road. Due to rash and negligent driving of the bus bearing registration No. PB-13H-0599 (for short 'the offending vehicle') Anil Sharma, lost his life. The said offending vehicle hit the Accent Car bearing registration No. PB-11W-4977 in which he was traveling. As a result of the accident he died on the spot. FIR No. 15 dated 03.02.2007 was registered at police station Bhawanigarh, District Sangrur.

In the claim petition filed under Section 166 of the Motor

Vehicle Act, 1988(for short 'the Act'), the Tribunal awarded a sum of Rs.8,77,000/- along with interest @ 6% per annum. The said amount awarded includes Rs.5,000/- each for funeral expenses and loss of consortium.

I have heard the learned counsel for the parties and perused the paperbook and record.

The parties have not disputed the factum regarding the involvement of the offending vehicle and rash and negligent driving of the offending vehicle and the loss of dependency calculated by the Tribunal.

Learned counsel for the appellants argued that the deceased was 46 years of age and was running a business but the Tribunal has not awarded future prospects. His further contention is that the amount awarded for funeral expenses and loss of consortium is on the lower side and no amount has been awarded for loss of estate. No other issue was raised.

Learned counsel for the Insurance company defended the award and resisted any further enhancement.

The contentions raised by the learned counsel for the appellants deserve acceptance as same are supported by the decision of Hon'ble Apex Court in '**National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017.**' The Hon'ble Apex Court has held that where the deceased was in the age group of 40 to 50 and was having fixed salary or was self employed, 25% future prospects are to be awarded. Further, it has been held that a sum of Rs. 70,000/- is to be awarded under conventional heads.

As the loss of dependency calculated by the Tribunal of Rs. 8,66,671/- has not been disputed, 25% future prospects on the said amount is awarded that comes to Rs. 2,16, 668. The same is rounded off to Rs.2,16, 700/-. The amount for funeral expenses Rs. 15,000/-; loss of estate Rs. 15,000/- and loss of consortium Rs. 40,000/- are awarded in accordance with the Supreme Court decision in Pranay Sethi's case (*supra*).

The award dated 04.04.2012 is modified to the extent that the amount awarded by the Tribunal of Rs.8,77,000/-/- is enhanced by Rs.2,76,700/-.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

19.12.2017

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1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No