

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

**FAO No. 4590 of 2012 (O&M)
Date of Decision:- 07.12.2017**

Satinder Kaur & Ors.Appellants

Versus

Mohan Singh & Ors. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Ms. Sumanpreet Kaur, Advocate, for
Ms. Kuldeep Kaur, Advocate, for the appellants.

Mr. H.S. Saggu, Advocate, for respondent Nos. 1 and 2.

Ms. Madhu Sharma, Advocate, for respondent No. 3.

AVNEESH JHINGAN, J. (Oral)

Present appeal has been filed against the award dated 01.06.2010 passed by Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal').

On 07.06.2006, Baldev Singh was going on his scooter bearing registration No. CH-010H/4765. The scooter was struck by a rashly and negligently driven tractor bearing registration No. PB-11P-4743 (for short,'the offending vehicle'). As a result of the accident, he suffered multiple injuries and died instantly. FIR No. 72, dated 07.06.2006 was registered (in the award date has wrongly been written as 07.06.2000)

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.5,10,000/- along with interest @6% per annum, which

included an amount of Rs. 6,000/- for funeral expenses.

The present appeal has been filed by legal heirs of the deceased for enhancement of the compensation.

I have heard learned counsel for the parties and perused the paper-book and record.

Learned counsel for the appellants argued that the deceased was 45 years of age and was a trained machanic. The Tribunal though has assessed income as Rs.4500/- per month, but has not awarded any amount for future prospects. Her further grievance is that only an amount of Rs.6000/- has been awarded for funeral expenses, which is on the lower side and no amount has been awarded for loss of estate and loss of consortium.

Learned counsel for the respondents contended that since income of the deceased was not established, no future prospects should be awarded. He could not raise any serious objection regarding conventional heads 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.

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.** (Supra) and in case of **Hem Raj Vs. Oriental Insurance Company Ltd, in Civil Appal No. 19603 of 2017,** **decided on 22.11.2017.**

Hon'ble Apex Court in **National Insurance Co. Ltd.** (Supra) has held that where the deceased was aged 40 – 50 self-employed and was having a fixed salary, 25% future prospects should have been awarded. It

has further 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.

In case of **Hem Raj Vs. Oriental Insurance Company Ltd,** (Supra) the Hon'ble Apex Court has held that even where income is assessed on the basis of minimum wages prevalent at the time of accident, even in such cases, future prospects have to be added.

Since there is no dispute with regard to loss of dependency as calculated by the Tribunal, 25% of Rs.5,04,000/- is awarded for future prospects i.e. 1,26,000/-. The amount awarded for funeral expenses is enhanced and amounts are awarded for loss of consortium and loss of estate. The amount of Rs. 70,000/- is awarded in consonance with the decision of Hon'ble Apex Court in **National Insurance Co. Ltd.** (Supra).

The award dated 01.06.2010 is modified to the extent that the amount awarded of Rs.5,10,000/- awarded by the Tribunal is enhanced to Rs.7,00,000/-.

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 realisation.

The appeal is partly allowed in the aforesaid terms.

December 07, 2017
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(AVNEESH JHINGAN)
JUDGE

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