

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

FAO No. 5719 of 2012 (O&M)
Date of Decision:- 14.12.2017

Geeta Devi & Ors.

....Appellants

Versus

Jaibir Singh & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Nonish Kumar, Advocate, for
Mr. Munish Mittal, Advocate, for the appellants.

Mr. Arun Sharma, Advocate, for
Mr. T.K. Joshi, Advocate, for respondent No.3 – Insurance Co.

AVNEESH JHINGAN, J. (Oral)

Present appeal involves the issue of awarding future prospects and enhancement of amounts awarded under the conventional heads.

The facts have not been disputed by either of the parties that Rajinder Kumar, aged 30 years lost his life in a motor vehicular accident. In the said accident truck bearing registration No. HR-69A-3038 was the offending vehicle. The deceased was survived by three dependents. The loss of dependency calculated by the Tribunal of Rs.5,85,480/- has also not been disputed by either of the parties.

In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') by the legal heirs of the deceased, the Tribunal after appreciating facts and considering the evidence produced awarded a sum of Rs.6,05,480/- along with interest @7.5% per annum. The

said amount includes Rs.20,000/- awarded for all the conventional heads including loss of love and affection.

Learned counsel for the appellants has contended that the deceased was 30 years of age and his income was assessed relying upon the minimum wages, hence 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 and in case of **Hem Raj Vs. Oriental Insurance Company Ltd, in Civil Appal No. 19603 of 2017, decided on 22.11.2017,** 40% future prospects should be awarded.

Learned counsel for the insurance company though defended the award but could not raise any serious objection in view of the above cited decisions.

Since, the loss of dependency calculated as Rs.5,85,480/- has not been disputed, the 40% of the said amount is awarded for future prospects i.e. Rs.2,34,192/-.

Hon'ble Apex Court in **National Insurance Co. Ltd.** (Supra) has held that Rs.70,000/- is to be awarded under the conventional heads 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 and no amount is to be awarded for love and affection. In such circumstances, the amount awarded of Rs.20,000/- under the conventional heads is enhanced to Rs.70,000/- (i.e. Rs.15,000 for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium).

The award dated 20.04.2012 passed by Motor Accident Claims

Tribunal, Kurukshetra is modified to the extent that the amount awarded of Rs.6,05,480/- is enhanced by Rs.2,84,192/-.

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 14, 2017
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(AVNEESH JHINGAN)
JUDGE

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