

Harbhajan Kaur and others Vs. Ankush Jain and another

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

None has appeared on behalf of the respondents.

Mr. R.C. Kapoor, Advocate who is present in the Court
accepts notice on behalf of the respondent-Insurance Company.

Copy of the paper book has been supplied to him. After
going through the paper book he has assisted the Court. Hence, the
present appeal is taken up for final disposal.

(AVNEESH JHINGAN)
JUDGE

22.12.2017

rashmi

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

FAO-10000 of 2014 (O&M)

Date of decision: 22.12.2017

Harbhjan Kaur and others

.... Appellants

Versus

Ankush Jain and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. R.C. Kapoor, Advocate
for the respondent-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been preferred against the award dated 25.08.2014 passed by Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal').

On 11.10.2011, Sukhbir Singh aged 21 years was going on his motorcycle bearing registration No. PB-11-AF-0390. The said motorcycle was hit by rashly and negligently driven Indigo Car bearing registration No.HR-01-8548. As a result of the accident he suffered multiple injuries and was taken to Rajindra Hospita, Patiala where he was declared brought dead. FIR No.132 dated 12.10.2011 was registered at Police Station Julkan, District Patiala.

In a claim petition filed by the legal heirs of the deceased under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') Tribunal

has awarded a sum of Rs.4,42,000/- alongwith interest @ 6% per annum. The said amount awarded included Rs.5,000/- each for funeral expenses and loss of estate.

I have heard the learned counsel for the parties, perused the paperbook and the relevant documents produced by them.

The parties have not disputed the involvement of the offending vehicle, rash and negligent driving of the offending vehicle and loss of dependancy calculated by the Tribunal.

Learned counsel for the appellants has argued that the Tribunal has not awarded future prospects and the amount awarded for funeral expenses and loss of estate is on the lower side.

Learned counsel for the Insurance Company contended as there was no established income, no future prospects should be awarded. He could not raise any serious issue on the enhancement of conventional heads in view of the settled position of law.

The contentions raised by learned counsel for the appellants deserves acceptance in view of the law laid down by the Hon'ble Apex Court in cases of **National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017** and **'Hem Raj Vs.Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017 decided on 22.11.2017'**.

The Hon'ble Apex Court has held that where the deceased was below 40 years and self employed or having fixed salary, 40% future prospects should be awarded. It has been held that amount of Rs.15,000/- each is to be

awarded for funeral expenses and loss of estate.

The Hon'ble Apex Court in ***Hem Raj*** case (supra) has held that future prospects has to be awarded even in cases where the earning has been assessed on the basis of minimum wages.

Since, there is no dispute on the loss of dependency calculated of Rs. 4,42,000/- 40% future prospects on the said amount has been awarded i.e. Rs. 1,76,800/-. The amount awarded of Rs.5,000/- each for funeral expenses and loss of estate are enhanced to Rs. 15,000/- each.

The award dated 25.08.2014 is modified to the extent that the amount awarded of Rs. 4,42,000/- is enhanced by Rs. 1,96,800.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

22.12.2017

rashmi

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

2. Whether the order is reportable : Yes/No