

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1552 of 2014 (O&M)

Date of Decision: 2.11.2017

Meena Rani and others

.....Appellants

Versus

Jasdev Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Navin Kapur, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal is for enhancement of compensation awarded to the legal heirs of Ram Singh (deceased) by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal') vide award dated 13.11.2013.

The accident occurred on 26.1.2013 between Swift car bearing registration No. PB-12-N-1827 (for short 'the offending vehicle') and the motor cycle bearing registration No. PB-39-D-1724.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the legal heirs of Ram Singh, deceased.

The Tribunal, vide award dated 13.11.2013 awarded a sum of Rs.6,20,000/- along with interest at the rate of 7% per annum. The said amount awarded included loss of dependency of Rs.4,95,000/- and Rs.1,25,000/- under the conventional heads.

The facts have not been disputed by the parties.

The only issue raised by learned counsel for the appellants is that future prospects has not been granted by the Tribunal.

Learned counsel for the Insurance Company resisted for the grant of future prospects in the present case.

Without going into the controversy that whether the future prospects are to be awarded or not to be awarded in the present case. The net effect is that was if future prospects are to be granted, those would be 10% of the loss of dependency, as assessed by the Tribunal.

The net result would be that there would be enhancement of Rs.49,500/-.

Taking other angle of the case that now as per the authoritative decision of Hon'ble the Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017**, the amount to be awarded under conventional heads has been restricted upto Rs.70,000/-.

In this case, the claimants have been awarded Rs.1,25,000/- under the conventional heads. Meaning thereby, excess amount of Rs.55,000/- has been awarded.

Hon'ble the Apex Court in case of **D.M. Oriental Insurance Co. Ltd. Versus Swapna Nayak and others 2017 AIR (SC)692** has held as under:

"18. When we find that under the one head, reasonable amount has been awarded and under another head, nothing has been awarded though it should have been so awarded and at the same time, we notice that eventual figure of the award of compensation payable to the claimants appears to be just and reasonable then in such eventuality, we do not consider it proper to interfere in

such award in our appellate jurisdiction under Article 136 of the Constitution. In other words, if by applying the tests and guidelines, we find that overall award of compensation is just and fair, then, in our view, such award deserves to be upheld in claimants' favour. We find it to be so in the facts of this case having taken note of all relevant facts and circumstances of the case."

In the above decision, it has been held that if a reasonable amount has been awarded under one head and under other head nothing has been awarded, but the compensation is just then no interference is called for.

In the present case, the enhancement asked for and the excess amount awarded under other heads are by and large of the same amount.

Hence, there is no merit in the present appeal and the same is dismissed. The award of the Tribunal is upheld.

2.11.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No