

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3779 of 2013 (O&M)

Date of Decision:6.12.2017

Pooja and another

.....Appellants

Versus

Rakesh Singh Lathwal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Suri, Advocate
for appellant No.1.

Mr. Karan Vir Nanda, Advocate
for appellant No.2.

Mr. Vishal Aggarwal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 1.4.2013 passed by the Motor Accidents Claims Tribunal, Panchkula (for short 'the Tribunal').

Anil Kumar, aged 26 years, lost his life in a motor vehicular accident that occurred on 26.6.2011. In the said accident, Santro Car bearing registration No. CH03-W-6321 was the offending vehicle. As a result of the accident, Anil Kumar suffered injuries and lost his life. FIR No. 117 dated 27.6.2011 was registered.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the widow of the deceased. The

Tribunal awarded a sum of Rs. 6,80,000/- along with interest at the rate of 6% per annum. The Tribunal apportioned the compensation in the ratio of $\frac{1}{3}^{\text{rd}}$ and $\frac{2}{3}^{\text{rd}}$ i.e. $\frac{1}{3}^{\text{rd}}$ was given to the widow and $\frac{2}{3}^{\text{rd}}$ was given to the mother of the deceased.

The present appeal has been filed by the widow for enhancement of the compensation and challenging the apportionment of the compensation.

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

During the pendency of this appeal, the issue so far as apportionment is concerned, has been settled between the appellant and mother of the deceased. Both the counsel for the parties have made a statement that it has been settled that any enhancement made would be divided equally between the mother and widow of the deceased and there is no dispute with regard to the compensation already received. The only issue that survive for adjudication is enhancement of compensation.

No dispute has been raised by counsel for the parties with regard to involvement of the offending vehicle, rash and negligent driving of offending vehicle and calculation of loss of dependency.

Learned counsel for the appellant has argued that the deceased was 26 years of age and was having a fixed salary. In such circumstance, the Tribunal should have added future prospects while awarding loss of dependency. He further argued that no amount has been awarded under conventional heads.

Learned counsel for Insurance Company defended the award but could not raise any serious objection with regard to awarding of future prospects in view of the latest 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.**

Hon'ble the Apex Court in **Pranay Sethi's case (supra)** has held that where the deceased is below 40 years of age and was having fixed salary, 40% future prospects have to be awarded.

Hon'ble the Apex Court in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)** has further held that even in the cases where minimum wages are relied upon to assess the income even, in those cases also future prospects have to be awarded.

Since, there is no dispute with regard to calculation of loss of dependency, 40% future prospects are awarded and the amount comes to Rs. 2,72,000/-.

Further contention raised by learned counsel for the appellant regarding awarding compensation under conventional heads deserves acceptance in view of the decision of Hon'ble the Apex Court in **Pranay Sethi's case (supra)** and Rs.70,000/- is awarded under the conventional heads i.e. Rs.15,000 for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

The award dated 1.4.2013 is modified to the extent that the amount awarded of Rs. 6,80,000/- is enhanced by Rs.3,42,000/- The entitlement to said enhanced amount would be alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization

of the amount.

In view the statement made by counsels, the said enhanced amount alongwith interest would be divided into equal share between the widow and mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

6.12.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No