

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

FAO No. 2762 of 2015 (O&M)

DATE OF DECISION : 27.11.2017

Smt. Kavita Devi and others

.... APPELLANTS

Versus

Jitender Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Gulrej Khan, Advocate, for
 Mr. A.K. Goyal, Advocate,
 for the appellants.

Mr. S.P. Arora, Advocate,
for respondent No.3 – Insurance Company.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed by the claimants aggrieved of the award dated 17.07.2014 passed by the Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal'), in MACT Petition No. 55 of 2013.

Sandeep, aged 26 years, lost his life in a motor vehicular accident, which occurred on 16.12.2012 between motor cycle bearing registration No. HR-16H-3628 and rashly and negligently driven tanker/van bearing registration No. DD-03H-9842 (for short, 'the offending vehicle'). Sandeep was driving the motor cycle and Sanjay was pillion rider. As a result of the accident, Sandeep and Sanjay fell on the road and they were run

over by the offending vehicle. FIR No. 246 dated 16.12.2012 was registered at Police Station Badhra.

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 awarded a sum of ₹ 10,04,200/- along with interest at the rate of 6% per annum. In addition to this, an amount of ₹ 2,200/- was awarded as litigation expenses

Aggrieved of the said award, the present appeal has been filed by the claimants for enhancement of compensation.

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

The parties have not disputed the involvement and the rash and negligent driving of the offending vehicle. The amount of ₹ 9,79,200/- awarded by the Tribunal for loss of dependency is also not disputed. The only issue raised in the present appeal is that the amounts awarded under the conventional heads and towards litigation expenses are on the lower side.

Learned counsel for the appellants argued that only a sum of ₹ 25,000/- has been awarded under the conventional heads of loss of consortium, loss of estate and funeral expenses. In view of the latest decision of the Hon'ble Apex Court in **National Insurance Company Limited Vs. Pranay Sethi and others**, [Special Leave Petition (Civil) No. 25590 of 2014], decided on 31.10.2017, this amount requires enhancement. His further grievance is that a sum of ₹ 2,200/- awarded as litigation expenses is very meager.

Learned counsel for respondent No.3 – Insurance Company defended the award and resisted any enhancement.

The issue raised by learned counsel for the appellants with regard to the awarding of compensation under the conventional heads is no longer *res integra* and has been decided by the Hon'ble Apex Court in **Pranay Sethi's case** (supra), wherein it has been held as under :-

“61. In view of the aforesaid analysis, we proceed to record our conclusions :-

(i) to (vii) x x x

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

As per the above decision, the amount of ₹ 25,000/- awarded under the conventional heads is enhanced to ₹ 70,000/-, i.e. ₹ 15,000/- for loss of estate, ₹ 40,000/- for loss of consortium and ₹ 15,000/- for funeral expenses.

Further, the Tribunal has awarded a sum of ₹ 2,200/- towards litigation expenses. The widow and children have lost their sole bread earner, and the parents have lost their young son. In such circumstances, they should have been duly compensated by awarding sufficient amount,

which they had to incur to pursue the present litigation. Hence, a sum of ₹ 10,000/- is awarded as litigation expenses.

In view of the above, the award dated 17.07.2014 is modified to the extent that the compensation of ₹ 10,04,200/- awarded by the Tribunal is enhanced to ₹ 10,49,200/-, and the amount of ₹ 2,200/- awarded towards litigation expenses is enhanced to ₹ 10,000/-.

The appellants shall be entitled to the enhanced amount of compensation along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

November 27, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes