

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

FAO-5833 of 2014 (O&M)
Date of decision: 21.12.2017

Smt. Krishana Devi and others

.... Appellants

Versus

Raj Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Tapan Yadav, Advocate
for the appellants.

Respondents No. 1 to 3 ex parte.

Mr. Lalit Garg, Advocate
for respondent No.4.

Avneesh Jhingan, J.

The present appeal has been filed by the claimants for enhancement of compensation against the award dated 09.05.2013 passed by Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal').

The factual matrix of the present case is that on 02.03.2008 around 4.00 A.M. Attar Singh alongwith Rohtash Kumar was travelling on a tractor driven by Raj Kumar, bearing registration No.HR34A-8602 (It may clarified that in the heading of the award it has been wrongly mentioned as truck number). The tractor over turned near village Jairpur as a result Attar Singh sustained injuries and died on the spot.

A claim petition under Section 166 of the Motor Vehicle Act,

1988(for short 'the Act') was filed by the legal heirs of the deceased. The Tribunal awarded a sum of Rs.4,40,000/- along with interest @ 6% per annum.

I have heard the learned counsel for the parties and perused the paperbook and record.

Learned counsel for the appellants argued that the tribunal has not awarded any future prospects while calculating the loss of dependency. His grievance is that the amount awarded for funeral expenses, loss of consortium and loss of estate are on the lower side.

Learned counsel for the Insurance Company resisted any further enhancement.

The contention raised by learned counsel for the appellants deserves acceptance in view of the decision of the Hon'ble Apex Court in **'National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017.** It was held that 40% future prospects are to be awarded when deceased was below 40 years of age and Rs.70,000/- is to be awarded under the conventional heads.

Since in the present appeal there is no dispute that deceased would fall under category of self employed or having fixed salary and loss of dependency calculated by the Tribunal i.e. Rs.4,05,000/- is not disputed, 40% of the said amount is awarded as future prospects i.e. Rs.1,62,000/-. The amount of Rs. 35,000/- awarded under the conventional heads are enhanced to Rs. 70,000/-. Accordingly, the compensation awarded of Rs.4,40,000/- by the Tribunal is enhanced by Rs. 1, 97,000/-.

The claimants should be entitled to the enhanced compensation

alongwith interest @ 6% from the date of filing of the claim petition till realization of the amount except for the period of 235 days for which the delay was condoned by this Court subject to the condition that claimants would not be entitled to interest for the said period.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

21.12.2017
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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No