

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

**FAO No. 90 of 2013 (O&M)
Date of Decision:- 08.12.2017**

Paramjit Kaur & Anr.

....Appellants

Versus

Mohinder Singh & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. M.K. Singla, Advocate, for the appellants.

Mr. D.R. Bansal, Advocate, for respondent No.3.

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 09.10.2012 passed by Motor Accident Claims Tribunal, Sangrur (for short,'the Tribunal').

On 9.10.2009, a motor vehicular accident occurred involving the motor-cycle bearing registration No. PB-28-C-7508 and a rashly and negligently driven bus bearing registration No. HR-55-A-6792 (for short,'the offending vehicle'). In the said accident Kuldeep Singh @ Babbu, aged 23 years lost his life. FIR No. 145, dated 10.10.2009 was registered at Police Station Ahmedgarh.

A claim petition was filed by the legal heirs of the deceased i.e. mother, brother and sister under Section 166 of the Motor Vehicles Act, 1988 (for short,'the Act'). The Tribunal held that only mother is entitled to compensation and awarded a sum of Rs.11,86,929/- along with interest @7.5% per annum. The said amount included Rs.10,000/- awarded for

funeral expenses.

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

In the present appeal, there is no dispute with regard to involvement of the offending vehicle, rash and negligent driving of the offending vehicle and loss of dependency calculated by the Tribunal.

Learned counsel for the appellants argued that the Tribunal has not added future prospects while awarding loss of dependency. His further grievance is that amount awarded for funeral expenses is on the lower side and no amount has been awarded for loss of estate.

Learned counsel for the insurance company on the other hand defended the award and resisted the enhancement but could not raise any serious objection in view of the latest decision of the Hon'ble Apex Court in **National Insurance Co. Ltd. Vs. Parney Sethi, SLP (Civil) 25590 of 2014,** decided on 31.10.2017, though he has argued that he has disputed the liability, which is the issue involved in FAO No. 490 of 2013.

The contention raised by learned counsel for the appellants deserves acceptance in view of the law laid down by Hon'ble Apex Court in case of **National Insurance Co. Ltd.** (Supra).

The Hon'ble Apex Court has held that where the deceased is below 40 years and was getting a fixed salary, 40% future aspects should be awarded.

Since there is no dispute with regard to loss of dependency calculated by the Tribunal i.e. Rs.10,80,000/-, 40% of the said amount is awarded as future prospects i.e. Rs.4,32,000/-.

The Tribunal had awarded a sum Rs.10,000/- for funeral expenses and no amount has been awarded for loss of estate. The Hon'ble Apex Court in **National Insurance Co. Ltd.** (Supra) has held that Rs.15,000/- is to be awarded for loss of funeral expenses and Rs.15,000/- for loss of estate. The amount of funeral expenses is enhanced to Rs. 15,000/- and Rs.15,000/- is awarded for loss of estate.

The award dated 09.10.2012 qua quantum part only is modified to the extent that the amount of Rs.11,86,929/- awarded by the Tribunal is enhanced by Rs.4,52,000/-

The claimants would be entitled to the enhanced amount along with interest @6% per annum from the date of filing of the claim petition till realisation.

The appeal is partly allowed in the aforesaid terms.

December 08, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No