

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

FAO-3810-2016 (O&M)
Date of decision: 04.12.2017

Amita and others

.... Appellants

Versus

Norang Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Sandeep Kumar Goyat, Advocate
for the appellants.

Mr. Sachin Ohri, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 04.02.2016 passed by Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as the 'Tribunal').

On 15.10.2012, there was a motor vehicular accident involving Alto Car bearing registration No.HR-17-9700 and a Tralla bearing registration No.RJ-23GA-5599 (for short, 'the offending vehicle'). Basant Kumar, aged 28 years, was travelling in the Alto Car. The said car was struck by rashly and negligently driven offending vehicle. As a result of the accident, Basant Kumar suffered serious injuries. He was taken to Civil Hospital, Hisar where he was declared dead.

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

The Tribunal awarded a sum of Rs.17,50,000/- along with interest @ 7% per annum.

The present appeal has been filed by the claimants for enhancement of compensation.

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

In the present appeal, the parties have no dispute with regard to involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age and salary of the deceased, deduction made for self expenses and the multiplier applied.

The only two issues in the present appeal are that the future prospects have not been awarded and the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the appellants has argued that it was proved on record vide Ex.P1 to P5, which he has shown in Court also, that the deceased was getting a salary of Rs.12,440/-per month. His grievance is that inspite of the fact that he was employed at a fixed salary, no future prospects have been awarded. He further argued that the amounts of Rs.25,000/- for funeral expenses, Rs.25,000/- for loss of love and affection and Rs.6800/- have been awarded for transport and miscellaneous expenses but no amount has been awarded for loss of estate and loss of consortium.

Learned counsel for respondent No.3 has argued that it has not been proved on record that there would have been any promotion of the deceased with the passage of time, hence no future prospects should be

awarded. He further argued that excess amount has already been awarded for funeral expenses and amount for loss of love and affection should not have been awarded and as such, no further enhancement is called for.

The contentions raised by learned counsel for the appellants deserve acceptance in view of the law laid down in the latest 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.** The Hon'ble Apex Court has held that even where a person was employed at a fixed salary and was below the age of 40, 40% future prospects should be awarded. The Hon'ble Apex Court has further held that Rs.70,000/- under conventional heads have to be awarded and there is no head of love and affection under which the compensation should be awarded.

Since the loss of dependency calculated by the Tribunal of Rs.16,93,200/- has not been disputed, 40% future prospects on the said amount are awarded i.e. Rs.6,77,280/-

Instead of the amounts awarded for funeral expenses, loss of love and affection and for transportation and miscellaneous expenses, an amount of Rs.70,000/- is awarded i.e. Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium.

The award dated 04.02.2016 is modified to the extent that the amount awarded by the Tribunal of Rs.17,50,000/- is enhanced to Rs.24,40,480/-.

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

the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

04.12.2017

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

2. Whether the order is reportable : Yes/No