

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

FAO-4840-2015 (O&M)
Date of decision: 04.12.2017

Rajwati and another

.... Appellants

Versus

Nirmal Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Vivek Suri, Advocate
for the appellants.

Mr. Amrinder Singh Sidhu, Advocate
for respondent No.2-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 17.04.2015 passed by Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal').

The only issue raised by the appellants in the present case is that no future prospects have been awarded.

Learned counsel for the Insurance Company contended that the excess amount has already been awarded under the conventional heads and hence there is no need of enhancement for loss of dependency.

The bare facts necessary for the adjudication of the appeal are that Rinku, aged 20 years, lost his life in a motor vehicular accident that occurred on 22.01.2014. He was sitting in a Mohindra Maximo bearing registration No.PB-11-AY-7582. The said vehicle being driven rashly and

negligently struck against an Auto Rickshaw bearing registration No.PB-11-BA-2470, as a result of which, Mohindra Maximo turned turtle. Rinku suffered grievous injuries and ultimately lost his life.

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.7,73,000/-. The Tribunal further directed that the said amount be paid within two months failing which it would carry interest @ 6% per annum.

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

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

In the present appeal, there is no dispute with regard to the accident, rash and negligent driving of the offending vehicle, age of the deceased, earning of the deceased, deduction for self expenses and the multiplier applied.

The issues raised in the present appeal are that the future prospects have not been awarded and that the Tribunal has not awarded any interest.

The issue of future prospects has to be decided in favour of the appellants. While arriving at just and equitable compensation the amount awarded under the conventional heads has to be restricted as per 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 earning of the deceased was assessed as Rs.6,000/- per month treating him to be a labourer and applying the minimum wages prevalent at the said time. The latest decision of the Hon'ble Apex Court in **Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017** has held that in cases where the earning is assessed relying upon the minimum wages, future prospects have to be awarded.

Keeping in view the said decision, 40% future prospects are awarded in the present case. The loss of dependency was calculated as Rs.6,48,000/-, 40% of the same comes to Rs.2,59,200/-.

The claimants were awarded Rs.25,000/-for funeral expenses and Rs.1 lakh for loss of love and affection. Since just and equitable compensation has to be awarded, keeping in view the decision of the Hon'ble Apex Court in **National Insurance Company Ltd.'s case (supra)**, the said amount is restricted to Rs.30,000/- i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate. No amount is to be awarded for loss of love and affection.

The Tribunal erred in not awarding the interest on the compensation amount. As per Section 171 of the Act, interest is statutory. The Tribunal should have dealt with awarding of interest separately. In the award, there is no discussion with regard to the interest.

The Hon'ble Apex Court in case **Dharampal and others vs. U.P. State Road Transport Corpn. 2008(12) SCC 208** has held as under :-

“8. As per Section 171 of the Motor Vehicle Act,

1988 (hereinafter referred as 'Act') where the claim for compensation made under the act is allowed by the Claims Tribunal, the tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate from such date not earlier than the date of making claim.”

Keeping in view the facts of the case, interest @ 6% per annum is awarded to the claimants from the date of filing of the claim petition till realisation of the amount. The interest would be on the amount awarded by the Tribunal as well as on the enhanced amount.

The compensation awarded by the Tribunal is enhanced by Rs.1,64,200/-.

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

2. Whether the order is reportable : Yes