

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 3818 of 2016 (O&M)

Date of Decision: 19.12.2017

Kuldeep and others

.....Appellants

Versus

Devender and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 22.7.2015 passed by the Motor Accidents Claims Tribunal, Jhajjar, (for short 'the Tribunal').

The only two issues are involved in the present appeal : firstly awarding of future prospects to a Government employee who was aged 45 years and secondly the amount be awarded under conventional heads i.e. for loss of estate and funeral expenses.

In a motor vehicular accident that occurred on 7.6.2013 Baljeet aged 45 lost his life. In the said accident, the offending vehicle was bus bearing registration No.HR-63-A-6177. While he was boarding the bus, the driver suddenly started the bus without any signal or whistle from the conductor. As a result, Baljeet fell down and sustained multiple injuries. He was taken to General Hospital, Jhajjar, from where he was referred to PGIMS, Rohtak. From there he was shifted to All India Medical Institute, Medical Science, Trauma Center, Delhi, where he died during the treatment.

The legal heirs of the deceased filed a claim petition under

Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The Tribunal after appreciating the facts and considering the evidence, awarded a sum of Rs.18,01,456/- alongwith interest at the rate of 7.5.% per annum. The said amount awarded included Rs. 25,000/- for funeral expenses and Rs. 25,000/- for loss of love and affection.

The parties have not disputed the facts regarding involvement of offending vehicle, rash and negligent driving of the offending vehicle and loss of dependency calculated by the Tribunal.

I have heard learned counsel for the parties and perused the paper book and the relevant documents produced on record.

Learned counsel for the appellants argued that the deceased was 45 years of age at the time of accident and was a Government employee, no future prospects have been awarded by the Tribunal. His further grievance is that that no amount has been awarded for loss of estate also.

Learned counsel for the Insurance Company argued that the amount awarded for funeral expenses is on the higher side and Rs. 25,000/- awarded for loss of love and affection, cannot be sustained in view of the decision of Hon'ble the Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017.** However, he could not raise any serious objection with regard to awarding the amount for loss of estate. He was not able to seriously resist awarding of future prospects in view of the settled proposition of law.

The contention raised by learned counsel for the appellants regarding awarding of the future prospects deserves acceptance in view of

the decision of Hon'ble the Apex Court in **Pranay Sethi's case (supra)**.

Since, in the present case, there is no dispute regarding loss of dependency calculated by the Tribunal of Rs.17,51,456/-, 30% future prospects are awarded on the said amount as per the decision of Hon'ble the Apex Court in **Pranay Sethi's case (supra)**, which comes to Rs.5,25,437/-.

The contention raised by both the counsels with regard to conventional heads deserve acceptance. Since the amount on quantum of compensation is being revisited, the amount to be awarded under conventional heads is made inconsonance with the decision of the Hon'ble Apex Court in **Pranay Sethi's case (supra)**.

As per the said decision, no amount can be awarded for loss of love and affection and Rs.15,000/- has to be awarded for funeral expenses and Rs.15,000/- for loss of estate.

The net result is that the amount awarded of Rs.50,000/- for funeral expenses and loss of love and affection, would be reduced by Rs.20,000/-.

The award dated 22.7.2015 is modified to the extent that the amount awarded of Rs.18,01,456/- is enhanced by Rs.5,05,437/-.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

19.12.2017
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Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No