

In the High Court of Punjab & Haryana at Chandigarh.

FAO-5557-2016

Date of decision: 04.12.2017

Sumitra and others

..... Petitioners.

VS.

Veer Singh and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr.D.S.Kadian, Advocate &
Mr. Vikas Kumar, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

AVNEESH JHINGAN,J.(ORAL)

The present appeal has been filed against the award dated 02.04.2016 passed by the Motor Accidents Claims Tribunal, Gurgaon (for short 'the Tribunal'). The only issue raised in the present appeal is that no future prospects have been awarded.

The facts regarding involvement of offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased, multiplier applied, deduction towards personal expenses, compensation under conventional heads and even the salary determined are not in dispute.

The bare facts necessary for adjudication of the present appeal are that on 28.08.2015, Balram, aged about 41 years lost his life in a motor vehicular accident which occurred between motorcycle bearing registration No.HR-76-1305 and a swift Dzire car bearing registration No. HR-36-X-4608 (hereinafter to be referred 'the offending vehicle'). As a result of the

accident, Balram died on the spot. FIR No. 213 dated 28.08.2015 was registered at police station Farrukh Nagar, Gurgaon. In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the Tribunal awarded a sum of Rs.18,24,000/- alongwith interest at te rate of 9% per annum. The said amount included Rs. 65,000/- awarded under the conventional heads.

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

The issue raised regarding the conventional heads and future prospects is squarely covered by the latest decision of Hon'ble Apex Court in **National Insurance Company Limited Vs.Pranay Sethi and Ors.,** Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017.

In the said decision, it has been held that where a person was employed or on a fixed salary and was between the age of 40 and 50 years, 25% future prospects have to be awarded. It has further been held that Rs.70,000/- under the conventional heads has to be awarded i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- towards funeral expenses.

Since, there is no dispute by either of the parties on the dependency calculated at Rs. 17,64,000/-, in view of the decision of the Hon'ble Apex Court 'National Insurance Company Limited' case (supra), 25% towards future prospects i.e. Rs. 4,41,000/- has to be awarded.

The amount of Rs.65,000/- awarded under the conventional heads is enhanced by Rs.5,000/- i.e. totaling Rs.70,000/-. With the enhancement of Rs.5,000/-, the amount awarded under the various heads would be equivalent to an amount to be awarded as per the decision of the

Hon'ble Apex Court in **National Insurance Company Limited' case (supra).**

The award dated 02.04.2016 is modified to the extent that the amount awarded of Rs.18,24,000/- is enhanced to Rs. 22, 75,000/-.

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 the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

04.12.2017.
smriti

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No