

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

FAO No. 8840 of 2014

DATE OF DECISION : 13.12.2017

Smt. Maya Devi and another

.... APPELLANTS

Versus

Rajinder Panwar and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sudhir Aggarwal, Advocate,
for the appellants.

Mr. R.C. Kapoor, Advocate,
for respondent No.3 – Insurance Company.

AVNEESH JHINGAN, J. (Oral)

The present appeal is against the award dated 01.08.2014 passed by the Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal').

In an accident, that occurred on 06.06.2011, Jagmal Singh alias Suresh Kumar, aged 48 years, lost his life in a motor vehicular accident, involving a rashly and negligently driven Canter bearing registration No. RJ-23GA-2236. FIR was registered.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of the deceased.

The Tribunal, after appreciating the facts and considering the evidence produced, awarded a sum of ₹ 6,55,000/- along with interest at the

rate of 7.5% per annum. The amount awarded included ₹ 1,00,000/- for loss of consortium; ₹ 10,000/- for loss of estate and ₹ 25,000/- for funeral expenses.

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

Learned counsel for the appellants has argued that the deceased was 48 years of age and the Tribunal has not added future prospects while calculating loss of dependency.

Learned counsel for respondent No.3 – Insurance Company argued that already excess amount has been awarded under the conventional heads. Hence, there is no occasion to award future prospects, as the excess amount is virtually the same, as would be the future prospects.

The contentions raised by learned counsel for the parties are duly covered by the latest decision of the Hon'ble Apex Court in **National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017.** The Hon'ble Apex Court has held that where the deceased was 40-50 years of age, 25% future prospects are to be awarded, in case he/she was having fixed salary or was self employed. It has further been held that a sum of ₹ 70,000/- is to be awarded under the conventional heads, ₹ 15,000/- for loss of estate; ₹ 40,000/- for loss of consortium and ₹ 15,000/- for funeral expenses. Since the compensation awarded is being revisited, the amounts under the

conventional heads would be made in consonance with the aforesaid decision of the Hon'ble Supreme Court.

Both the parties have not disputed the amount of loss of dependency, i.e. ₹ 5,20,000/-. Hence, 25% of the said amount, i.e. ₹ 1,30,000/- is awarded as future prospects. Further, as per decision of the Hon'ble Apex Court in **Pranay Sethi's case** (supra), a sum of ₹ 1,35,000/- awarded under the conventional heads is restricted to ₹ 70,000/-.

The net result is that the award dated 01.08.2014 is modified to the extent that the amount of ₹ 6,55,000/- awarded by the Tribunal is enhanced by ₹ 65,000/-.

The appellants 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 realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

December 13, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No