

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

FAO-6696-2016 (O&M)
Date of decision: 20.12.2017

Gopal and others

.... Appellants

Versus

Tarloka Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.K.S.Dhillon, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal involves issues regarding awarding future prospects to the claimants and the compensation to be awarded under the heads of funeral expenses, loss of estate and loss of consortium.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of Sunil Kumar, aged 32 years. The Tribunal awarded a sum of Rs.17,89,000/- along with interest @ 6% per annum. The amount awarded included Rs.1,00,000/- for loss of consortium and Rs.25,000/- for funeral expenses.

The factual matrix necessary for adjudication of the present appeal are that Sunil Kumar met with a motor vehicular accident on 12.03.2014. In the said accident, the offending vehicle was Tata Trailer 18 whellers/tyres bearing registration No.RJ-07-GA-1977. The head of Sunil

Kumar was crushed under tyre of the trailer. FIR No.40 dated 13.03.2014 was registered at Police Station Phillaur, District Jalandhar.

The parties have not disputed the facts regarding involvement of the 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 relevant documents produced by them.

Learned counsel for the appellants argued that the deceased was 32 years of age and was having a fixed salary which was accepted by the Tribunal, no future prospects were awarded by the Tribunal. His grievance is that no amount for loss of estate has been awarded.

Learned counsel for the Insurance Company argued that amounts awarded for funeral expenses and loss of consortium are on the higher side. She resisted awarding of future prospects but could not raise any serious objection in view of 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 contention raised by learned counsel for the appellants deserves acceptance with regard to the awarding of future prospects as it is squarely covered by the latest decision of Hon'ble Apex Court in **National Insurance Company Ltd.'s case (supra).** It has been held that where the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects are to be awarded. It has been held that the amount of Rs.70,000/- has to be awarded under the conventional heads i.e Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of

consortium.

Since the quantum of compensation is being revisited, the amounts awarded under the conventional heads are being made in consonance with the latest decision of Hon'ble Apex Court in **National Insurance Company Ltd.'s case (supra).**

Since there is no dispute on the amount of loss of dependency calculated by the Tribunal i.e. Rs.16,64,000/-. 40% future prospects of the said amount are being awarded i.e. Rs.6,65,600/-. Instead of amounts awarded by the Tribunal of Rs.1,25,000/- for funeral expenses and loss of consortium, the same are modified to Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium.

The award dated 20.05.2016 is modified to the extent that the amount awarded by the Tribunal of Rs.17,89,000/- is enhanced by Rs.6,10,600/-.

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

20.12.2017
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1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No