

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 9458 of 2014 (O&M)

Date of Decision: 18.12.2017

Premo Devi and others

.....Appellants

Versus

Subhash Chand and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Saurabh Bhardwaj, Advocate
for the appellants.

Mr. Ram Kumar Saini, Advocate
for respondents No. 1 and 2.

Ms. Madhu Sharma, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 1.4.2014 passed by the Motor Accidents Claims Tribunal, Kurukshetra (for short 'the Tribunal').

The present appeal has been filed by the claimants for enhancement of compensation amount of Rs.9,45,000/- awarded by the Tribunal along with interest at the rate of 7.5% per annum. The 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 parties have not disputed the facts regarding involvement of the offending vehicle i.e. motor cycle bearing registration No. HR-07S-2326, rash and negligent driving of the offending vehicle and loss of dependency calculated by the Tribunal.

that the deceased was 32 years of age at the time of accident but no future prospects have been awarded by the Tribunal and secondly that no amount has been awarded for loss of estate.

Learned counsel for the respondents argued that already excess amount has been awarded for loss of consortium and funeral expenses. Her further grievance is that Rs.1,00,000/- has been awarded for loss of care and guidance for minor children which should not have been awarded. The contention is that since excess amount has already been awarded, no amount should be awarded for future prospects.

The contention raised by learned counsel for the appellants deserves acceptance 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***, wherein it has been held that where the deceased was below 40 years of age and having fixed salary or self employed, 40% future prospects should be awarded. It has further been held that under conventional heads Rs.70,000/- has to be awarded i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses respectively.

Hon'ble the Apex Court has further held that no amount is to be awarded for loss of love and affection.

Hon'ble the Apex Court in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)** has held that even where the income is assessed relying upon the minimum wages, future prospects is to be awarded.

Since, there is no dispute with regard to loss of dependency calculated by the Tribunal, i.e. Rs. 7,20,000/-, 40% future prospects of the

said amount is awarded i.e. Rs. 2,88,000/-. Since the compensation is being revisited, the conventional heads are awarded in-consonance with the decision of Hon'ble the Apex Court in Pranay Sethi's case (supra) i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses respectively.

The net result is that the award dated 1.4.2014 is modified to the extent that the amount awarded of Rs.9,45,000/- is enhanced by Rs.1,33,000/-.

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 realization of the amount.

The appeal is partly allowed in the aforesaid terms.

18.12.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No