

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

**FAO No. 8062 of 2015 (O&M)
Date of Decision:- 06.12.2017**

Rubi & Ors.

....Appellants

Versus

Amit Kumar & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. A.K. Yadav, Advocate, for the appellant.

Mr. Gopal Sharma, Advocate, for respondent Nos. 1 and 2.

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

AVNEESH JHINGAN, J. (Oral)

Present appeal has been filed against awarded 15.10.2013 passed by Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal').

In a motor vehicular accident that occurred on 17.05.2012, Satish Kumar, aged 23 years lost his life. The accident involved Xylo jeep bearing registration No. HR-36-R-2698 and a truck bearing registration No. RJ-14-GA-8537. FIR No. 269, dated 18.05.2012 was registered at Police Station Shahpura, District Jaipur Rural (Rajasthan).

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 awarded a sum of Rs.7,55,000/- along with interest @6% per annum. The said amount includes a sum of Rs.25,000/- for loss of consortium, Rs.5000 for funeral expenses and Rs.5,000/- for loss of estate.

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

There is no dispute raised on the facts by either of the parties i.e. involvement of the offending vehicle, rash and negligent driving of the offending vehicle and calculation of loss of dependency.

Learned counsel for the appellants argued that no future prospects have been added by the Tribunal while awarding the compensation for loss of dependency. He further argued that the amount awarded under conventional heads are on the lower side.

Learned counsel for the insurance company defended the award and resisted any further enhancement.

The contentions raised by learned counsel for the appellants deserve acceptance in view of the law laid down by the Hon'ble Apex Court in *National Insurance Co. Ltd. Vs. Parney Sethi, SLP (Civil) 25590 of 2014*, decided on 31.10.2017.

The Hon'ble Apex Court in case of *Hem Raj Vs. Oriental Insurance Company Ltd, in Civil Appal No. 19603 of 2017, decided on 22.11.2017* has held that even where the income is assessed on the basis of minimum wages prevalent at the time of accident even in such cases future prospects have to be added.

Keeping in view that deceased was 23 years of age, 40% future prospects have to be awarded in the present case.

Loss of dependency of Rs.7,20,000/- is not in dispute. Hence 40% of the said amount is awarded for future prospects.

$$\text{Rs.7,20,000/-} \times 40\% = \text{Rs.2,88,000/-}$$

The contentions of learned counsel for the appellants with regard to conventional heads deserve acceptance. The Hon'ble Apex Court in *National Insurance Co. Ltd.* (Supra) has held that Rs.70,000/- (i.e. Rs.15,000/- for loss of funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- of loss of consortium) is to be awarded under the conventional heads. The amount already awarded by the Tribunal under the conventional heads is enhanced to Rs.70,000/-

The award dated 15.10.2013 is modified to the extent that the amount of Rs.7,55,000/- awarded by the Tribunal is enhanced to Rs.10,78,000/-.

The claimants would be entitled to the enhanced amount along with interest @6% per annum from the date of filing of the claim petition till realisation.

The appeal is partly allowed in the aforesaid terms.

December 06, 2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No