

F.A.O. No. 7061 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 7061 of 2016 (O&M)

Date of Decision: 5.12.2017

Smt. Sona Devi and others

.....Appellants

Versus

Veekesh Chand Yadav and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: **Mr. Sunil Chahal, Advocate for
Mr. Vineet Chaudhary, Advocate
for the appellants.**

**Mr. Radheshyam, Advocate
for respondent No.4.**

AVNEESH JHINGAN, J.

The present appeal filed against the award dated 29.4.2016 passed by the Motor Accidents Claims Tribunal, Ambala (for short 'the Tribunal'), raises the issues of awarding compensation for future prospects and under conventional heads as per 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.***

Parveen Kumar, aged 28 years, lost his life in a motor vehicular accident that occurred on 16.5.2013. In the said accident, the offending vehicle was Tata Motor bearing registration No. MH-12, TRBSG-755. FIR No.138 dated 26.5.2013 was registered at Police Station Parao Ambala. The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by legal heirs of the deceased. The Tribunal awarded a sum of Rs.11,43,000/- along with interest at the rate of 7.5% per annum.

The said amount included Rs. 2,25,000/- awarded for loss of consortium, loss of love and affection and funeral expenses.

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

The parties have not raised any dispute with regard to the involvement of the offending vehicle, rash and negligent driving of the offending vehicle and computation for loss of dependency.

Learned counsel for the appellants has argued that the deceased was 28 years of age at the time of accident and the Tribunal has not awarded any sum for future prospects. He further argued that no sum has been awarded for loss of estate.

Learned counsel for the Insurance company argued that the amount awarded is already excess as Rs. 2,25,000/- has been awarded for loss of consortium, loss of love and affection and funeral expenses. He further argued that in order to arrive at just and equitable compensation, the said amount should be awarded according to the latest decision of Hon'ble the Apex Court in **Pranay Sethi's case** (supra). However, learned counsel resisted any further enhancement.

The contention raised by learned counsel for the appellants is squarely covered by the decision of Hon'ble the Apex Court in **Pranay Sethi's case** (supra). The deceased was 28 years and as per the above decision of Hon'ble the Apex Court, 40% future prospects on the established income has to be awarded. Since, loss of dependency has been calculated at Rs. 9,18,000/- which has not been disputed by either of the parties, 40% is added for future prospects which comes to Rs.3,67,200/-.

So far as the amount to be awarded under conventional heads,

this Court while dealing with the quantum of compensation has to arrive at just and equitable compensation and according to the decision of Hon'ble the Apex Court in **Pranay Sethi's case (supra)**, Rs.70,000/- has to be awarded under conventional heads i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

Keeping in view the binding decision of Hon'ble the Apex Court referred above, Rs. 70,000/- is awarded under conventional heads instead of Rs.2,25,000/- awarded by the Tribunal.

The award dated 29.4.2016 is modified to the extent that amount awarded of Rs.11,43,000/- is enhanced to Rs.13,55,200/-. The claimants shall be entitled to enhanced amount alongwith 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 above said terms.

(AVNEESH JHINGAN)
JUDGE

5.12.2017
reema

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No