IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 138 of 2017 (O&M)

Date of Decision:18.12.2017

Nisha Devi and others

.......Appellants

Versus

Raj Kumar and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajkapoor Malik, Advocate
for the appellants.

Mr. Ashok Mathur, Advocate
for respondent No.3.

<u>AVNEESH JHINGAN, J.</u>

The present appeal is against the award dated 11.8.2016 passed by the Motor Accidents Claims Tribunal, Kaithal (for short 'the Tribunal').

On 19.5.2015, Parveen aged around 35 years lost his life in a motor vehicular accident, he was going on his motor cycle bearing registration No.HR-08-Q-5548. A rashly and negligently driven motor cycle bearing registration No.HR-08T-4340 was the offending vehicle in the said accident.

As a result of the accident, Parveen suffered grievous multiple injuries. He remained admitted in Virk Hospital, Karnal and thereafter was referred to Sector 32 GMCH, Chandigarh, he died on 1.6.2015.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'),the Tribunal awarded a sum of Rs.9,66,150/-alongwith interest at the rate of 7% per annum to the legal heirs of the deceased.

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In the present appeal, the appellants have raised two issues:

firstly that no future prospects has been awarded and secondly that deduction of 1/3rd for self expenses has wrongly been made as the deceased was survived by six dependents. Further grievance of the appellants is that no amount has been awarded for loss of estate.

Learned counsel for the Insurance Company defended the award but could not raise any serious objections to the contentions raised by learned counsel for the appellants, in view of the decision of Hon'ble the Apex Court. He further contended that already Rs.70,000/-has been awarded under conventional heads which would be sufficient for funeral expenses, loss of consortium and for loss of estate also.

The parties have not disputed the involvement of the offending vehicle in the accident, rash and negligent driving of the offending vehicle, multiplier applied and the income assessed.

The contention raised by learned counsel for the appellants deserves acceptance in view of the law laid down by 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***, and in ***Sarla Verma and others Vs. Delhi Transporation Corporation and another (2009)6 SCC 121.***

In view of the above decisions, 40% future prospects has to be awarded and deduction of 1/4th has to be made for self expenses. The contention raised by learned counsel for the appellants that no amount has been awarded for future prospects will not make any change in the compensation awarded under the conventional heads. The amounts awarded for funeral expenses and loss of consortium of Rs.70,000/- would cover the loss of estate also. In **Pranay Sethi's case (supra),** Hon'ble the Apex Court

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has held that a sum of 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 above discussion and the case law cited above, the loss of dependency is recalculated as under:

Annual income	Rs.72,000/-
40% future prospects	Rs.28,800/-
Total (72000+28800)	Rs.1,00,800/-
$1/4^{th}$ deduction for self expenses	Rs.25,200/-
(100,800 – 25200)	Rs.75600/-
Applying multiplier of 16	
(75600 x 16)	Rs.12,09,600/-

The award dated 11.8.2016 is modified to the extent that loss of dependency calculated at Rs.7,68,000/- is enhanced to Rs.12,09,600/-, the rest of the amounts awarded remain as it is.

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.

(AVNEESH JHINGAN)
JUDGE

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Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No

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