

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2294 of 2017 (O&M)

Date of Decision: 18.12.2017

Saroj Rani and another

.....Appellants

Versus

Sachin Jain and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal is against the award dated 5.12.2016 passed by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal').

In a motor vehicular accident involving motor cycle bearing registration No.PB-11-AY-2735 and rashly and negligently driven car bearing registration No. HR-07-K-3745 (for short 'the offending vehicle'), Manoj Kumar, aged 28 years lost his life.

In a claim petition filed under Section 166 of the Motor Vehicle Act, 1988 (for short 'the Act') by the legal heirs of deceased, the Tribunal awarded a sum of Rs.9,41,000/-. The said amount awarded included Rs.25,000/- for funeral expenses and Rs. 1,00,000/- for loss of love and affection.

The parties have not disputed the fact regarding involvement of the offending vehicle, rash and negligent driving of the offending vehicle and loss of dependency calculated by the Tribunal.

Learned counsel for the appellants argued that no future prospects has been awarded by the Tribunal while calculating the loss of dependency. He further argued that no amount has been awarded for loss of estate.

Learned counsel for the Insurance Company argued that since the income of the deceased was not established, in such circumstance, no future prospects should be awarded. He further argued that Rs. 1,00,000/- has been awarded for loss of love and affection, which should not have been awarded. His further argument is that the amount awarded for funeral expenses is on higher side.

The contentions raised by learned counsel for the appellants are supported by 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**, and **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017)**, wherein it is held that 40% future prospects has to be awarded where the deceased was below 40 years and self employed or having a fixed salary. It has further been held that no amount is to be awarded for loss of love and affection and Rs.15,000/- each is to be awarded for loss of estate and funeral expenses.

Hon'ble the Apex Court in **Hem Raj's case (supra)** has held that future prospects is to be awarded even in cases where the income of the deceased is assessed relying upon the minimum wages prevalent at that time.

Since, the amount of compensation is being revisited in the present appeal, the amount awarded under conventional heads would be

made in consonance with the decision of Hon'ble the Apex Court in **Pranay Sethi's case (supra)**.

There is no dispute with regard to loss of dependency calculated of Rs.8,16,000/-, 40% future prospects are to be awarded i.e. Rs.3,26,400/-.

The funeral expenses awarded by the Tribunal is reduced to Rs.15,000/- and Rs.15000/- is awarded for loss of estate. The amount awarded for loss of love and affection cannot be sustained in view of the settled proposition of law.

The award dated 5.12.2016 is modified to the extent that the amount awarded of Rs.9,41,000/- is enhanced by Rs. 2,31,400/-.

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
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No