

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 21.12.2017

(i) FAO No. 913 of 2016 (O&M)

Reliance General Insurance Company Limited

.....Appellant

Versus

Pooja Kakkar and others

.....Respondents

(ii) FAO No. 372 of 2016 (O&M)

Pooja Kakkar and others

.....Appellants

Versus

Surinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.K. Bashamboo, Advocate
for the appellant-Insurance Company
in FAO No. 913 of 2016 and
for respondent No.3 in FAO No. 372 of 2016.

Mr. Vivek Suri, Advocate
for respondents No. 1 to 4
in FAO No. 913 of 2016 and
for appellants in FAO No. 372 of 2016.

AVNEESH JHINGAN, J.

These are two appeals filed by the Insurance Company and the claimants against the award dated 21.9.2015 passed by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal').

The grievance in both the appeals is with regard to the quantum of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Tribunal').

On 19.8.2014 Rajiv Kakkar, aged 34 years, was going on his motor cycle bearing registration No.HR-03-L-9756. The said motor cycle

was hit by a rashly and negligently driven Ford Figo Car bearing

registration No.PB-11-AX-3835. As a result of the injuries suffered in the accident, Rajiv Kakkar lost his life on 20.8.2014. FIR No. 328 dated 20.8.2014 was registered at Police Station Baldev Nagar, Ambala.

In the claim petition filed the Tribunal awarded a sum of Rs.39,70,000/- alongwith interest at the rate of 8% per annum.

The issue regarding involvement of offending vehicle was raised by the Insurance Company but was rejected by this Court while issuing notice of motion in the appeal.

Now at this stage either of the parties have not disputed the involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased, income assessed and deduction made for self expenses.

Learned counsel for the Insurance Company argued that 50% future prospects awarded by the Tribunal, are on the higher side. His grievance is that no amount for loss of love and affection could have been awarded whereas in the present case Rs.1,00,000/- has been awarded for loss of love and affection. He contended that the amounts awarded of Rs.1,00,000/- for loss of consortium, Rs. 25,000/- for funeral expenses and Rs. 20,000/- for loss of estate is on the higher side.

Learned counsel for the claimants though had filed an appeal for enhancement but very fairly and candidly in view of the latest decision of Hon'ble the Apex Court **National Insurance Company Limited Versus Pranay Sethi and others Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017**, could not resist the arguments raised by the Insurance Company.

The contention raised by learned Insurance Company are duly

supported by the decision of Hon'ble the Apex Court in **Pranay Sethi's case (supra)**.

As per the said decision, in the present case since the deceased was below 40 years of age and was self employed 40%, future prospects are to be awarded. Hon'ble the Apex Court in **Pranay Sethi's case (supra)** has held that no compensation is to be awarded for loss of love and affection and Rs.70,000/- is to be awarded under the conventional heads i.e. Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium.

Since, there is no dispute with regard to income, self deduction and multiplier applied, the compensation is being recalculated as under:

Annual income	Rs.2,05,000/-
40% Future prospects	Rs.82,000/-
Total:	Rs.2,87,000/-
1/4 th deduction for self expenses	Rs.71,750/-
	Rs.2,15,250/-
Applying multiplier of 16	Rs.34,44,000/-
Conventional heads.	Rs.70,000/-
Medical expenses (already awarded)	Rs.10,000/-
Total:	Rs.35,24,000/-.

The award dated 21.9.2015 is modified to the extent that the amount awarded of Rs.39,70,000/- is reduced to Rs.35,24,000/-.

The claimants would be entitled to recalculated amount alongwith interest as awarded by the Tribunal.

Both the appeals are disposed of accordingly.

21.12.2017

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(AVNEESH JHINGAN)
JUDGE