

FAO No. 409 of 2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 409 of 2017 (O&M)

Date of Decision: 18.12.2017

Smt. Shaista and others

.....Appellants

Versus

Jagdeep Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Navmohit Singh, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.5-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal involves the issue regarding awarding of future prospects in case where the deceased was 26 years of age and the amount to be awarded under conventional heads.

Sher Khan aged 26 years, met with a motor vehicular accident on 18.7.2014. The offending vehicle in the said accident was bus bearing registration No.HR-58-A-7531. Sher Khan was going on his motor cycle bearing registration No.HR-71-C-6244, as a result of the impact of the bus, he received injuries and died on the spot.

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 calculated the loss of dependency as Rs.13,60,000/- and further awarded a sum of Rs.1,00,000 for loss of consortium, Rs.50,000/- towards loss of love and affection to daughter-claimant No.2 and Rs.25,000/-each for loss of love and affection to claimants No. 3 and 4 and Rs.25,000/- as

Funeral expenses, total Rs.15,85,000/- was awarded alongwith interest at the

rate of 8% per annum.

The facts have not been disputed by either of the parties regarding involvement of the offending vehicle in the accident, rash and negligent driving of the offending vehicle and loss of dependency calculated by the Tribunal.

Learned counsel for the appellants argued that the deceased was 26 years of age at the time of accident and no future prospects have been awarded by the Tribunal. His grievance is that no amount has been awarded for loss of estate.

Learned counsel for the Insurance Company argued that since there was no established income of the deceased, no future prospects should be awarded. He further argued that already excess amount has been awarded under conventional heads, therefore, no amount should be awarded for loss of estate and even future prospects should not be awarded in view of the excess amount already awarded under the conventional heads.

The contentions raised in this appeal regarding future prospects and conventional heads are dealt with 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**, 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 under conventional heads Rs.70,000/- has to be awarded i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses.

The contention raised by learned counsel for the Insurance Company that there is no established income, therefore, no future prospects

is to be awarded, cannot be accepted in view of decision of Hon'ble the Apex Court in **Hem Raj Versus Oriental Insurance Company Ltd. (in Civil Appeal No. 19602 of 2017 decided on 22.11.2017).**

Since the amount of compensation is being revisited, the amounts awarded under conventional heads are made in consonance with the decision of Hon'ble the Apex Court in Pranay Sethi's case (supra).

Loss of dependency calculated by the Tribunal of Rs.13,60,000/- has not been disputed. 40% future prospects on the said amount are calculated which comes to Rs.5,44,000/-. The conventional heads of Rs.70,000/- are awarded as per the decision of Hon'ble the Apex Court in Pranay Sethi's case (supra) i.e. Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses respectively.

The award dated 5.12.2015 is modified to the extent that the amount awarded of Rs.15,85,000/- is enhanced by Rs.3,89,000/-.

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
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No