

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 553 of 2017 (O&M)

DATE OF DECISION : 06.11.2017

Pavitra Sahni and others

.... APPELLANTS

Versus

Gulshan Kumar and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Suvir Dewan, Advocate,
for respondent No.2 – Insurance Company.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 29.07.2016 for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal').

Reeta alias Geeta, aged about 44 years, lost her life in a motor vehicular accident that occurred on 22.12.2014. The accident was result of rash and negligent driving of Tata Sumo bearing registration No. HR-61-4812 (for short, 'the offending vehicle'). The deceased was a house wife.

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, after considering the witness and evidence

produced before it, awarded a sum of ₹ 9,40,000/- along with interest at the rate of 9% per annum. The said amount included ₹ 1,00,000/- under the conventional heads.

Aggrieved of the said award, the legal heirs of the deceased have filed this appeal for enhancement of compensation.

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

Learned counsel for the appellants argued that the deceased was a house wife and the Tribunal has erred in taking her notional monthly income as ₹ 5,000/-. He further argued that the amount awarded under the conventional heads is on lower side.

Learned counsel for respondent No.2 – Insurance Company defended the award and opposed any enhancement.

The issue with regard to the awarding of compensation under the conventional heads has been authoritatively decided by the Five Judges' Bench of the Hon'ble Apex Court in **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017. In the said decision, the Hon'ble Apex Court has held that under the conventional heads, a total sum of ₹ 70,000/- is to be awarded.

Since there is no basis with the appellants to challenge the notional income assessed by the Tribunal and as per the latest decision of the Hon'ble Apex Court in **Pranay Sethi's case** (supra), the amount awarded

under the conventional heads is on the higher side, it would not be appropriate to undo what has been awarded by the Tribunal. In such circumstances, decision of the Hon'ble Apex Court in **D.M. Oriental Insurance Co. Ltd. Vs. Swapna Nayak & Ors.**, 2017 (3) SCC 598, can be relied upon, wherein it has been held that if under one head, reasonable amount has been awarded and another head, nothing or less amount has been awarded and the overall award award of compensation appears to be just and reasonable, such an award deserves to be upheld.

Keeping in view the abovesaid decision, I do not find any reason to interfere with the impugned award.

Consequently, the impugned award is upheld and the present appeal is dismissed.

November 06, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes