

In the High Court of Punjab & Haryana at Chandigarh.

FAO-577-2017 (O&M)

Date of decision: 04.12.2017

Ashwani and others

..... Petitioners.

VS.

Harjinder Singh and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Surinder Kaur, Advocate for
Mr. Ravi Malhotra, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3.

AVNEESH JHINGAN,J.(ORAL)

The present appeal has been filed against the award dated 22.07.2016 passed by Motor Accident Claims Tribunal, Jalandhar (for short 'Tribunal').

The appeal has been filed raising only two issues firstly that no amount was added to the income towards future prospects and secondly that the amount awarded under conventional heads is on the lower side.

The bare facts, necessary for adjudication of the present appeal, are that Ram Chand, aged 20 years, has lost his life in a motor vehicle accident that occurred on 03.07.2015. He was the pillion rider on motorcycle bearing registration No. PB-08-CK-3184 which was hit by a rashly and negligently driven truck bearing registration No. PB30-K-9205 (for short 'the offending vehicle'). As a result of the accident, he suffered grievous injuries and on his way to the hospital, he lost his life. FIR No. 102

dated 3.07.2015 was registered at Police Station Division -2, Jalandhar.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed. The Tribunal awarded a sum of Rs.4,96,000/- alongwith interest @ 7.5% per annum. The compensation includes Rs. 10,000/- awarded for funeral expenses and loss of estate.

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

The parties have not disputed the facts regarding involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased, the income of the deceased as assessed by the Tribunal, multiplier applied and deduction made for self expenses.

Learned counsel for the appellants argued that nothing was added as future prospects to the income assessed at Rs.4500/- per month. She further contended that amount awarded under the convictional heads is on the lower side.

Learned counsel for the Insurance Company defended the award, but could not raise any serious issue with regard to awarding future prospects and the amount to be awarded under the conventional heads, as the issues are squarely dealt with by Hon'ble Apex Court in case of **National Insurance Company Limited Vs. Pranay Sethi and Ors.**, Special Leave Petition (Civil) No. 25590 of 2014 decided on 31.10.2017.

The contention raised by learned counsel for the appellant deserves acceptance.

In **National Insurance Company Limited Vs. Pranay Sethi and Ors.** (Supra), it has been held that where the deceased was below age of 40 years, 40 % future prospects have to be awarded.

The Hon'ble Apex Court in the latest decision in *Hem Raj Vs. The Oriental Insurance Company Limited*, Special Leave Petition (Civil) No. 22134 of 2016 decided on 22.11.2017, has held that even in a case, where the income is assessed relying upon the minimum wages prevailing at the relevant time, keeping in view the age of the deceased, 40% of future prospects should have been awarded to the appellants.

The Hon'ble Apex Court in National Insurance Company Limited's case (Supra), held that Rs. 15,000/- for funeral expenses and Rs.15,000 for loss of estate has to be awarded.

Since there is no dispute on the loss of dependency calculated by the Tribunal as Rs.4,86,000/-, 40% future prospects is awarded on loss of dependency i.e. Rs. 1,94,400/- The amount under funeral expenses and loss of estate granted by the Tribunal are enhanced to Rs. 15,000/- each.

The award dated 22.07.2016 is modified to the extent that the amount awarded of Rs.4,96,000/- is enhanced to Rs. 7,10,400/-

The appellants would 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 the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

04.12.2017.
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No