245(I)

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

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**FAO No.240 of 2004 (O&M)**
**Date of Decision: 16.11.2018**

Anju and others

Appellants

Versus

Aman Deep Bhandari and others

Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Gautam Kaile, Advocate for
Mr. Om Parkash Sharma, Advocate
for the appellants.

Ms. Shamsher Kaur, Advocate
for the Insurance Company.

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**AVNEESH JHINGAN, J (Oral):**

The legal heirs of Siri Bhagwan are in appeal against award dated 02.09.2002 passed by Motor Accident Claims Tribunal, Gurgaon (for brevity 'the Tribunal').

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

Widow, three minor children and parents of the deceased are the appellants. The owner of Truck bearing registration No. DL-IG/B-2158 (hereinafter referred to as 'offending vehicle'); driver of offending vehicle and insurer of offending vehicle i.e. National

Insurance Company Ltd. have been arrayed as respondents No.1 to 3 respectively, in the appeal.

The brief facts necessary for adjudication of the appeal are that on 05.01.1999, Siri Bhagwan was driving Scooter bearing registration No. HR-26F-9597 while Ratti Ram was pillion rider. When they reached near Dulina turning situated on Jhajjar-Gurgaon Road, his scooter was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Siri Bhagwan suffered grievous injuries. He was taken to Civil Hospital, Jhajjar from where he was taken to Medical College, Rohtak, where he succumbed to his injuries suffered in the accident. FIR was registered. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act') was filed by legal heirs of the deceased.

The Tribunal, after considering the facts and appreciating the evidence adduced on record, held that the accident occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a compensation of ₹4,18,000/- alongwith interest @ 9% per annum.

Heard learned counsel for the parties, perused the paper book and relevant documents on record.

Learned counsel for the appellants has raised four grievances, firstly, that no future prospects have been awarded; secondly, that deceased was survived by 4 to 6 dependants and 1/3rd deduction has wrongly been made for self expenses; thirdly, he contended that the deceased was 25 years of age and the Tribunal erred in applying multiplier of 17 and lastly that amount awarded under conventional heads is on the lower side.

Learned counsel for the insurer defended the award and argued that amount awarded under conventional heads should be awarded strictly in accordance with the decision of the Supreme Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157*** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480.***

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

Parties have not disputed age of the deceased and income assessed by the Tribunal.

In view of decisions of the Supreme Court in ***Pranay Sethi*** and ***Hem Raj's*** case (supra), 40% future prospects are awarded. The claimants are survived by 4 to 6 dependants, thus in consonance with decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21,*** 1/4$^{th}$ deduction for self expenses is made. Keeping in view that the deceased was 25 years of age at the time of accident, multiplier of 18 is applied.

In view of decision of the Supreme Court in ***Pranay Sethi's*** case (supra), claimants are entitled to Rs.15,000/- each for funeral expenses and loss of estate. Rs.40,000/- is awarded to the widow for loss of consortium.

In view of above discussion, compensation is re-calculated as under:-

| **Particulars** | ***Amount (in ₹)*** |
|---|---|
| Monthly income of the deceased assessed | 3,000/- |
| 40 % Future Prospects | 1,200/- |
| Sub Total | 4,200/- |
| 1/4th deduction for self expenses | 1,050/- |
| Monthly Dependancy | 3,150/- |
| Annual Dependancy | 37,800/- |
| Applying multiplier of 18 | **6,80,400/-** |
| Funeral Expenses | **15,000/-** |
| Loss of Estate | **15,000/-** |
| Loss of consortium to widow | **40,000/-** |
| Grand Total | **7,50,400/-** |

The award dated 02.09.2002 is modified to the extent that amount awarded of ₹4,18,000/- by the Tribunal is enhanced to ₹7,50,400/-.

The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

**[AVNEESH JHINGAN]**
**JUDGE**

**November 16, 2018**
pankaj baweja

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No