

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

FAO No. 4192 of 2012

DATE OF DECISION : 26.02.2018

Smt. Sunita and others

.... APPELLANTS

Versus

Ram Parshad and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sushil Bhardwaj, Advocate,
for the appellants.

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

* * *

AVNEESH JHINGAN, J. (Oral)

This appeal emanates from the award dated 02.04.2012 passed by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal').

2. The issue involved in the present appeal is with regard to adding of future prospects and enhancement of amount awarded under the conventional heads.

3. On 04.06.2010, Damodar aged 37 years had started his journey from Karnal to Mohali. He was driving TATA-407 bearing registration No. HR-45A-2091. Near Meeri Peeri Medical College, Shahbad, the rear wheel of the vehicle was punctured and he was replacing the said wheel. A rashly and negligently driven canter bearing registration No. HR-55H-5023 (for

short, 'the offending vehicle') came from opposite side. The offending vehicle hit the standing TATA-407 and crushed Damodar under the front wheel. He was taken to CHC Shahbad, where he was declared brought dead. FIR No. 208 dated 04.06.2010 was registered at Police Station Shahbad.

4. The legal heirs of deceased Damodar filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'). The Tribunal awarded a sum of ₹ 6,95,000/- along with interest at the rate of 9% per annum. The amount awarded included ₹ 10,000/- each for funeral expenses and loss of consortium.

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

6. No dispute has been raised regarding rash and negligent driving of the offending vehicle and the loss of dependency calculated by the Tribunal.

7. Learned counsel for the appellants assailed the award arguing that no future prospects have been added; the amounts awarded for funeral expenses and loss of consortium are on the lower side; and no amount has been awarded for loss of estate.

8. Learned counsel for respondent No.3 - Insurance Company defended the award and argued that no case is made out for enhancement of compensation.

9. Having due regard to the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others, AIR 2017 SC 5157**, keeping in view the age of the deceased, 40% future

prospects are to be added and the appellants are entitled to ₹ 70,000/-, i.e. a sum of ₹ 15,000/- each for funeral expenses and loss of estate and ₹ 40,000/- for loss of consortium.

10. Since the loss of dependency of ₹ 6,75,000/- has not been disputed, therefore, 40% of the said amount, i.e. 2,70,000/-, is added for future prospects, and a sum of ₹ 70,000/- is awarded under the conventional heads.

11. The award dated 02.04.2012 is modified to the extent that the amount of ₹ 6,75,000/- awarded by the Tribunal is enhanced by ₹ 3,20,000/-.

12. The appellants would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

13. The appeal is partly allowed in the aforesaid terms.

February 26, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No