

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

CM-26776-CII-2017 in
FAO No.4859 of 2012
Date of decision: 02.02.2018

Shanti and others

.... Appellants

Versus

Suresh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Deepal Balyan, Advocate
for the appellants.

Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate and
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

CM-26776-CII-2017

The application has been moved for restoration of the appeal.

Learned counsel for respondent No.3 has no objection, if the
application is allowed.

For the reasons mentioned in the application, which is duly
supported by an affidavit, order dated 04.10.2017 is recalled and the appeal
is restored to its original number.

With consent of both parties, the main appeal itself is taken up
for disposal today.

CM-26777-CII-2017

This is an application for impleading the LRs of appellant No.1.

Learned counsel for the Insurance Company has no objection if the application is allowed.

CM is allowed and LRs of appellant No.1 are impleaded subject to all just exceptions.

FAO No.4859 of 2012

The legal heirs of Sita Ram have filed the present appeal for enhancement of compensation awarded vide award dated 09.06.2012 passed by Motor Accidents Claims Tribunal, Jhajjar (hereinafter referred to as the 'Tribunal').

The bare facts necessary for adjudication of the present appeal are that on 11.12.2010, Sita Ram was coming back to his village on his bicycle. He was struck by a rashly and negligently driven Maruti Car bearing registration No.DL-2CL-3691 (for short, 'the offending vehicle'). As a result of the accident, Sita Ram lost his life.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the Tribunal awarded a sum of Rs.3,87,822/- along with interest @ 7% per annum.

I have heard the learned counsel for the parties and perused the paperbook and record.

The parties have not disputed facts regarding involvement of the offending vehicle, rash and negligent driving of the offending vehicle,

age of the deceased, deduction made for self expenses, multiplier applied and income assessed of the deceased.

The two issues involved in the present appeal are that no future prospects have been awarded and amount of Rs.5,000/-each awarded for funeral expenses, loss of estate and loss of consortium, respectively, is on the lower side.

The issues raised in the present appeal are duly supported by the decisions of the Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017** and **Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017.**

In **Pranay Sethi's case (supra)**, it was held that where the deceased was in the age group of 50 to 60, and self employed or having fixed salary, 10% future prospects are to be awarded. It has further been held that the amount of Rs.70,000/- is to be awarded under the conventional heads i.e Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium.

In **Hem Raj's case (supra)**, it has been held that where the income is assessed on the basis of minimum wages prevalent at the time of accident even in such cases future prospects have to be added.

Since the loss of dependency calculated by the Tribunal of Rs.3,64,500/- has not been disputed, 10% of the said amount is awarded as future prospects i.e.Rs.36,450/-. The amounts for funeral expenses, loss of estate, loss of consortium are enhanced to Rs.70,000/-.

The award dated 09.06.2012 is modified to the extent that the amount awarded by the Tribunal of Rs.3,87,822/- is enhanced by Rs.91,450/-.

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

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

02.11.2017
anju

1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : No