

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

Date of Decision: 26.04.2018

(i) FAO No. 1264 of 2013 (O&M)

Smt. Santosh and others

.....Appellants

Versus

Ishwar Singh and others

.....Respondents

(ii) FAO No. 2876 of 2013 (O&M)

Shri Ram General Insurance Company

.....Appellant

Versus

Smt. Santosh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate
for the appellants in FAO No.1264 of 2013 and
for respondents No. 1 to 3 in FAO No. 2876 of 2013.

Mr. Rajat Garg, Advocate
for respondent No.3-Insurance Company in
FAO No. 1264 of 2013 and for appellant
in FAO No. 2876 of 2013.

AVNEESH JHINGAN, J.

Two appeals have been filed against the award dated 19.10.2012 passed by the Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal').

FAO No. 1264 of 2013 has been filed by the claimants and only one issue is pressed therein that Rs.5000/- awarded for funeral expenses is on the lower side and no amount has been awarded for loss of estate.

The insurer of Mahindra Max bearing registration No.HR-19-

E-0770 has filed FAO No. 2876 of 2013. The only issue raised and pressed therein is that 50% future prospects has wrongly been added rather 40% future prospects should have been added.

The bare facts necessary for adjudication of the present appeal are:

Amarjit aged 22 years a Constable in Delhi Police lost his life in a motor vehicular accident that took place on 27.10.2010. On the fateful day, he was coming to his village on a motor cycle bearing registration No.HR-34C-7961. When he reached near Khayara turning point, his motor cycle was hit by a rash and negligent driven Mahindra Max bearing registration No.HR-19-E-0770 (for short 'the offending vehicle'). As a result of the accident, Amarjit sustained head injuries and other injuries. He was admitted in Government Hospital, Mohindergarh. He was referred to PGIMS Rohtak. He succumbed to the injuries sustained in the accident. FIR was registered at Police station Mohindergarh on 28.10.2010.

The legal heirs of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 22 years at the time of accident. His salary was proved as Rs.14,581/- per month. 50% future prospects were added; ½ deduction for self expenses were made as the deceased was a bachelor and multiplier of 18 was applied. The Tribunal awarded compensation of Rs. 23,67,068/- alongwith interest at the rate of 6% per annum. The amount awarded included Rs.5000/- for funeral expenses.

The parties have not disputed the facts of the case. The

grievance raised by the insurer of the offending vehicle that 50% future prospects has wrongly been added cannot be accepted in view of the decision of Supreme Court in *National Insurance Company Limited Versus Pranay Sethi and others*, 2017 AIR (SC) 5157. It has been held that where the deceased was below 40 years of age and was having permanent job, 50% future prospects are to be added.

The contention raised by learned counsel for the appellants (claimants) that the amount awarded for conventional heads is on the lower side deserves acceptance. In view of decision of Supreme Court in *Pranay Sethi's case (supra)*, an amount of Rs. 15,000/- each is awarded for funeral expenses and loss of estate. The compensation awarded by the Tribunal is enhanced by Rs.25,000/-. The claimants would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

Accordingly, the appeal filed by the claimants is partly allowed and the appeal of the Insurance Company is dismissed.

(AVNEESH JHINGAN)
JUDGE

26.04.2018

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Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No