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

**FAO No.1032 of 2015 (O&M)
Date of Decision: 13.11.2018**

Bhagwati and others

Appellants

Versus

Amit and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Dr. Anand Kumar Bishnoi, Advocate
for the appellants.

Mr. Rohit Rana, Advocate for
Mr. Kunal Dawar, Advocate
for respondent No.2.

Mr. Abhimanyu Batra, Advocate
for respondent No.3.

Mr. Chetan Kapoor, Advocate for
Mr. Ashish Gupta, Advocate
for respondents No.4 and 5.

Mr. N.K. Manchanda, Advocate
for respondent No.6.

AVNEESH JHINGAN, J (Oral):

The widow, 3 children of Santi Ram (deceased) have filed the appeal against the award dated 12.08.2014 passed by the Motor Accident Claims Tribunal, Palwal (for brevity 'the Tribunal') for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver of Max Jeep bearing registration No. HR-63-

8343 (hereinafter referred to as 'Max M & M'); owner of Max M & M and insurer of Max M & M i.e. IFFCO TOKIO General Insurance Company Limited have been arrayed as respondents No.1 to 3 respectively in the appeal. The driver of Maruti Car bearing registration No. HR-27C-6262 (hereinafter referred to as 'Maruti Car'); owner of Maruti Car and insurer of Maruti Car i.e. National Insurance Co. Limited have been arrayed as respondents No.4 to 6, respectively in the appeal.

The brief facts relevant for adjudication of the present appeal are that Santi Ram, aged 47 years, on 12.11.2011 was returning to his native place i.e. Palwal from village Gharbra, U.P.. He was travelling in Max M & M alongwith his colleagues. When they reached near Peepli village, the driver of Max M & M lost control as he was driving the said vehicle rashly and negligently, resultantly, it rammed into Maruti Car which was also being driven in rash and negligent manner. As a result of the impact, Santi Ram suffered grievous injuries, he was taken to General Hospital, Palwal, where he was declared brought dead. FIR No.384 dated 13.11.2011 was registered.

In the claim petition filed by legal heirs of the deceased, the Tribunal awarded a sum of ₹6,05,000/- alongwith interest @ 6% per annum. The awarded amount included ₹20,000/- for funeral expenses/last rites and loss of estate under the conventional heads.

The Tribunal held that the accident occurred due to rash and negligent driving of both the vehicles. The insurer of Max M &

M was given recovery rights. The insurer of both the vehicles were held liable to pay compensation in equal proportion.

The Tribunal assessed the earning of deceased as ₹5,000/- per month. Deceased was survived by four dependants. Consequently, 1/4th deduction for self expenses was made and multiplier of 13 was applied.

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

Learned counsel for the appellants contended that no future prospects have been awarded and the amount awarded under the conventional heads is on the lower side. Further, it was contended that the interest rate awarded by the Tribunal i.e. 6% is on the lower side.

Learned counsel for the Insurance Companies defended the award with respect to rate of interest and further contended that the amount under conventional heads should be awarded strictly in accordance with decision of the Supreme Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157.**

The contention raised by learned counsel for the appellants deserves acceptance. Having due regard to the decision in **Pranay Sethi's** case (supra) and **Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,** 25% future prospects are to be awarded. Since there is no dispute with regard to loss of dependancy calculated by the Tribunal as ₹5,85,000/-. 25% of the

said amount is awarded for future prospects i.e. ₹1,46,250/-.

In addition to it, the claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- is awarded to the widow for loss of consortium.

The award dated 12.08.2014 is modified to the extent that amount awarded of ₹6,05,000/- is enhanced by ₹1,96,250/-. The enhanced amount shall be disbursed in the same proportion to the claimants as was held by the Tribunal.

The Tribunal had awarded interest @ 6% per annum. Keeping in view the prevailing rate of interest of banks at the time of accident, interest @ 7.5% per annum is awarded to the appellants on the entire amount including the enhanced amount. The interest shall be paid from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the manner indicated above.

[AVNEESH JHINGAN]
JUDGE

November 13, 2018

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