

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

FAO No. 3692 of 2015

Date of decision:- 16.05.2018

Anil Soni and others

---Appellants.

Versus

Abhey Ram and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Drupad Sangwan, Advocate, for
Mr. Rose Gupta, Advocate,
for the appellants.

Mr. Sandeep S.Mann, Sr. DAG, Haryana.

Mr. R. C. Gupta, Advocate,
for respondent No.3.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 10.03.2015 passed by Motor Accident Claims Tribunal, Hissar (for short 'the Tribunal').

The present appeal is filed only on the ground that no future prospects have been added by the Tribunal while awarding the compensation. The issue raised is no longer *res integra* and is covered by the decisions of the Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157** and **Hem Raj Vs. Oriental Insurance Company Ltd., 2017 DNJ 1102.**

Brief facts of the case are that, on 06.02.2014, Smt. Rajbala was going on her scooty from Hisar to Meham. When she reached near Hisar Cantt on National Highway No.10, a bus bearing registration No.HR-38/P/1640 (for short 'the offending vehicle'), driven in rash and negligent manner, struck the scooty. As a result thereof, she sustained grievous

injuries and was immediately taken to Jindal Hospital, Hisar, where she was declared dead. FIR No. 175 dated 06.02.2014 was registered in Police Station Sadar Hisar.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by legal heirs of the deceased.

The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of ₹11,40,280/- along with interest at the rate of 7% per annum.

I have heard learned counsel for the parties, perused the case file and relevant documents produced by them.

Learned counsel for the appellants stated that Rajbala (since deceased) was running a beauty parlour though her monthly income was not proved yet the fact that she was running a beauty parlour has not been rebutted. The Tribunal assessed the income of the deceased as ₹7,260/- per month relying upon the minimum wages prevalent at the time of accident. In such circumstances, future prospects should have been added.

On the other hand learned counsel for the respondents contended that the amount of ₹2 lac awarded for loss of love and affection can not be sustained in view of the decision of Supreme Court in Case of **National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR (SC) 5157**

No other issue has been raised by learned counsel for both the parties.

The contentions raised by learned counsel for the appellants, deserve acceptance.

Having due regard to the decision of the Supreme Court in

Pranay Sehti's case (supra) as the deceased was below 40 years of age and self employed or having fixed salary, 40% future prospects being added. The appellants would be entitled to ₹15,000/- for loss of estate, ₹15,000/- for funeral expenses and ₹40,000/- for loss of consortium.

Since the quantum of compensation is revisited, no amount can be awarded for loss of love and affection as per **Pranay Sethi's Case (supra)**.

For the reasons mentioned above, the compensation is recalculated as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹7,260- per month
(ii)	40% added towards future prospects	₹7,260+2,904=10,164/-
(iii)	1/3 rd deduction towards self expenses of the deceased.	₹10,164-3,388=6,776/-
(iv)	Multiplier of 16 applied	₹6,776X12X16= 13,00,992/-
(v)	Conventional heads (i.e. ₹15,000/- towards loss of estate, ₹15,000/- towards funeral expenses and ₹40,000/- towards loss of estate)	₹ 70,000/-
	Total Compensation Awarded	₹13,70,992/-

The award dated 10.03.2015 is modified to the extent that the amount awarded of ₹ 11,40,280/- is enhanced to ₹ 13,70,992/-.

The appellants/claimants would be entitled to interest at the same rate as awarded by Tribunal on the enhanced amount from the date of filing of the claim petition till realization of the amount.

Accordingly, the present appeal is partly allowed to the above extent.

16.05.2018

Riya Grover

(AVNEESH JHINGAN)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No