

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2812 of 2016

DECIDED ON: DECEMBER 07, 2018

CHANCHAL DEVI

.....APPELLANT

VERSUS

SIKANDAR SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Kartik Gupta, Advocate
for the appellant.

Mr. Vipul Sharma, Advocate for
Mr. Deepak Suri, Advocate
for the respondent-Insurance Company.

AVNEESH JHINGAN, J (ORAL)

The award dated 21.10.2015 passed by Motor Accident Claims Tribunal, Hoshiarpur (for short 'the Tribunal') in MACT case No. 20 of 19.09.2014, has been assailed by the mother of Ajay Kumar (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The owner of Truck Canter bearing registration No. PB-06-N-2731 (hereinafter referred to as 'offending vehicle'), driver and insurer of the offending vehicle i.e. National Insurance Company Ltd. have been arrayed as

respondents No.1 to 3 respectively in the appeal.

The brief facts of the case are that on 04.08.2014, Ajay Kumar was going on a scooter bearing registration No. PB-07-AM-6799. When he reached near village Mandiala his scooter was struck by a rashly and negligently driven offending vehicle. Due to the impact, Ajay Kumar Sharma sustained grievous injuries and died at the spot. FIR No. 90, dated 04.08.2014, under Sections 279, 304-A and 427 of the Indian Penal Code, 1860 was registered.

The mother of Ajay Kumar Sharma (deceased) filed a claim petition under Section 166 of the Act before the Tribunal.

The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a compensation to the tune of ₹11,06,000/- alongwith interest @9% per annum. The amount awarded included ₹25000/- each for funeral expenses and for loss of estate and general damages.

The age of the deceased was taken as 32 years. The Tribunal assessed the monthly income of the deceased as ₹11,000/-. The deceased was unmarried, consequently ½ deduction was made for self expenses. Multiplier of 16 was applied.

Heard learned counsel for the parties, perused the paper book and relevant documents produced by learned counsel for the parties.

The only issue raised by the learned counsel for the appellant is that no future prospects have been awarded.

Learned counsel for the insurer argued that the amounts awarded

under the conventional heads are on the higher side.

The contention raised by learned counsel for the parties deserves acceptance.

The deceased was 32 years of age at the time of accident and was having fixed salary. Having due regard to the decisions of the Supreme Court in National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009 and Hem Raj vs. Oriental Insurance Company Ltd; 2018 (2) PLR 480; 40% future prospects are awarded. Claimant is also entitled to a sum of ₹15,000/- each for funeral expenses and for loss of estate.

As there is no dispute with regard to the loss of dependency calculated by the Tribunal as ₹10,56,000/-, 40% of the said amount is awarded for future prospects i.e. ₹4,22,400/-. The amounts awarded under the conventional heads is reduced by ₹20,000/-

The net result is that the award dated 21.10.2015 is modified to the extent that the amount awarded of ₹11,06,000/- is enhanced by ₹4,02,400/-. The appellant shall be entitled to interest @7.5 % per annum on the enhanced amount of compensation from the date of filing of claim petition till the realization of the amount.

The appeal is partly allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

DECEMBER 07, 2018
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No