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

FAO No. 562 of 2015
Date of decision : 12.11.2018.

Saroj and another

Appellants

Versus

Surjan and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Mr. Rajesh Lamba, Advocate
for the respondent No.2.

AVNEESH JHINGAN, J (Oral):

The legal heirs of Yad Ram are in appeal seeking enhancement of compensation awarded vide award dated 15.07.2014 passed by Motor Accident Claims Tribunal, Kaithal (for brevity 'the Tribunal').

2. The brief facts are that on 03.08.2012, Yad Ram was going on his motorcycle bearing registration No. HR-08H-8263 to Assandh from his village to perform his duty. On his way, near Sirsal Chowk, his motorcycle was hit by a rashly and negligently driven motorcycle bearing registration No. HR-40B-9512 (hereinafter referred to as 'offending vehicle'). As a result of the impact, he

suffered multiple injuries and was shifted to Civil Hospital, Kaithal where he succumbed to the injuries. FIR No. 238, dated 03.08.2012 was registered at Police Station, Pundri. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act') was filed.

3. The Tribunal, after considering the facts and appreciating the evidence adduced, held that accident occurred due to rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The monthly earning of the deceased was proved to be ₹22,317/-. 1/3rd deduction was made for self expenses and multiplier of 11 was applied. The Tribunal awarded a sum of ₹20,58,896/- alongwith interest @ 7.5% per annum. The amount awarded included ₹95,000/- under conventional heads i.e. ₹20,000/- for transportation of the body and last rites and ₹75,000/- for loss of consortium to the widow.

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

5. Learned counsel for the appellants contended that no future prospects have been awarded.

6. Learned counsel for the insurer argued that amount awarded under conventional heads are on higher side.

7. There is no dispute with regard to amount of loss of dependancy of ₹19,63,896/- awarded by the Tribunal. Deceased was 55 years of age and was having fixed income, in view of

decision of the Supreme Court in case **National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157** and **Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480**, 10% future prospects i.e. Rs.1,96,389/- are awarded.

8. As the quantum of compensation is being revisited, the amount awarded under conventional heads is also made in consonance with the decision of Supreme Court in **Pranay Sethi's** case (supra). The claimants are entitled to ₹15,000/- each for funeral expenses & loss of estate and ₹40,000/- for loss of consortium.

9. The award dated 15.07.2014 is modified to the extent that amount of ₹20,58,896/- awarded by the Tribunal is enhanced by ₹1,71,389/-.

10. The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

11. The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

November 12, 2018

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