

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

FAO No. 5723 of 2015 (O&M)
Date of decision : August 31, 2018

Geeta Devi and others

..... Appellants

v.

Pardeep and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Aditya Yadav, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed for enhancement of compensation.

Brief facts are that on 25.03.2013, Sohan Lal, since deceased, while travelling on his motor cycle reached near PNB, Circular Road, Rewari, the offending tempo being driven by respondent No.1 rashly and negligently hit the motor cycle and due to this impact, the deceased fell down and received injuries and eventually died on the way to the hospital. Hence the claim petition was filed.

The Tribunal held the driver of the offending vehicle responsible for causing the accident. Income of the deceased was taken as ₹6,000/- per month and after applying multiplier of 17, total compensation assessed was ₹ 10,63,000/- including ₹ 1 lakh for loss of consortium, ₹

25,000/- for funeral expenses and ₹ 20,000/- for loss of care and guidance of minor children. Since the driving licence of respondent No.1 was held to be fake, respondents No.1 & 2 (driver and the owner) were held liable jointly and severally to pay the compensation amount.

Counsel for the appellants has argued that the Tribunal erred in not granting any future prospects. As per him, in view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, 40% had to be awarded on account of future prospects. Counsel for the Insurance Company is not in a position to deny this. Consequently, I direct that future prospects of 40% be granted in this case.

Counsel for the appellants has further argued that merely because the licence was fake, the Insurance Company could not have been completely exonerated but recovery rights should have been granted. Counsel for respondent No.3 is not in a position to deny this. Consequently, I hold that the Insurance Company will pay the compensation amount and will have the right to recover it from the owner and the driver of the offending vehicle.

Counsel for the Insurance Company, however, points out that under conventional heads, the Tribunal has awarded a sum of ₹ 1.45 lakh whereas ₹ 75,000/- will have to be reduced in view of the decision of the Supreme Court in Pranay Sethi and others' case (supra). Counsel for the appellants is not in a position to refute this. Consequently, I direct that the said amount be deducted from the compensation amount. Rest of the Award shall remain unchanged. With these modifications in the Award, this appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 31, 2018
'kk'

(AJAY TEWARI)
JUDGE

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