

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.221

FAO-534-2016 (O&M)
Date of decision: 13.11.2018

Laxmi Devi

.....Appellant

versus

Shamsher and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Raman Chawla, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.2-Insurance Company.

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DEEPAK SIBAL, J. (Oral)

The present appeal has been filed by the claimants seeking therein enhancement of the compensation granted to them by the Motor Accident Claims Tribunal, Hisar (for short – 'the Tribunal').

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 20.05.2012, Rajesh and his maternal cousin Tejpal were going to Adampur on their motorcycle. The motorcycle was being driven by Rajesh. At about 7.30 p.m., one tractor bearing registration No.HR-08N-4803 struck their motorcycle as a result of which both Rajesh and Tejpal fell down and received injuries. They were taken to the hospital where Rajesh was declared dead. After lodging an FIR, the appellant filed a claim petition before the Tribunal under Section 166 of the Motor Vehicles Act, 1988.

Learned counsel for the appellant submits that since the deceased was 31 years old, as per law laid down by the Hon'ble Apex Court

in National Insurance Company Limited vs. Pranay Sethi and others –

(2017) 16 SCC 680, the appellant was entitled to the grant of future prospects @ 40% on the assessed income of the deceased as also Rs.70,000/- under the conventional heads instead of Rs.62,000/- as granted by the Tribunal.

After having reached a conclusion that the offending vehicle was being driven in a rash and negligent manner, the Tribunal assessed the compensation payable to the appellant. The respondent-Insurance Company has not even questioned such finding of the Tribunal.

It is not disputed that the deceased was 31 years of age and was running a ready-made garments shop at Boga Mandi Adampur. The Tribunal assessed his annual income at Rs. 1,16,500/- to which there is also no challenge by the respondent-Insurance Company. After the pronouncement of law by the Hon'ble Supreme Court in **Pranay Sethi's case (supra)** the appellant is entitled to the grant of future prospects @ 40% on the assessed income of the deceased. She is further entitled to a total compensation of Rs.70,000/- under the conventional heads instead of Rs.62,000/- as granted by the Tribunal. The award of the Tribunal is modified accordingly.

The appellant is also entitled to the grant of interest @ 6.5% per annum on the enhanced amount of compensation from the date of filing of the claim petition till its realization.

No other point was urged.

The present appeal is allowed in the above terms.

November 13, 2018

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(DEEPAK SIBAL)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No