

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

FAO No. 5988 of 2016

DECIDED ON: DECEMBER 10, 2018

SAROJ BALA & OTHERS

.....APPELLANTS

VERSUS

M/S BHAGWATI TRANSPORT CO. & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ashish Grover, Advocate
for the appellants.

Mr. B.S. Taunque, Advocate
for respondent-Insurance Company.

AVNEESH JHINGAN, J (ORAL)

The award dated 18.09.2015 passed by the Motor Accident Claims Tribunal, Bathinda (for short 'the Tribunal') has been assailed by the legal heirs of Satpal Arora seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The brief facts necessary for the adjudication of the present appeal are that on 05.03.2013, Satpal Arora was coming from Sabji Mandi, Kotkapura, Distt. Faridkot after loading fruits and vegetables in Max Mahindra bearing

registration No. PB-03-N-9109. The vehicle was being driven by Karam Deen and Satpal Arora was sitting on conductor side. When they reached near Sharma Vaishno Dhaba near village Lamb Wali, Police Station Baja Khana, a rashly and negligently driven truck bearing registration No. PB-12-H-9369 (hereinafter referred to as 'offending vehicle') without giving any signal sharply turned towards left side, as a result thereof, Mahindra Max hit the truck from behind, consequently, Satpal Arora suffered injuries and died at the spot. FIR No. 18, dated 05.03.2013, under Sections 304-A, 279, 337 and 427 of the Indian Penal Code, 1860 was registered at Police Station Baja Khana.

The legal heirs of Satpal Arora (deceased) filed a claim petition under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation. The Tribunal awarded a compensation to the tune of ₹13,40,000/- alongwith interest @7.5% per annum. The amount awarded included ₹1,00,000/- for loss of consortium to the widow and ₹25,000/- for funeral expenses.

The claimants before the Tribunal pleaded that the deceased was having a licence of Commission Agent and was working as a Commission Agent in Sabji Mandi. It was claimed that he was having a monthly income of ₹20,000/-. But claimants failed to prove the monthly earning of the deceased and the Tribunal assessed the monthly earning of the deceased as ₹9000/-, 1/4th deduction for self-expenses was made and multiplier of 15 was applied. The deceased was 39 years old at the time of accident, as per PAN card Ex.C-12, his

date of birth was 27.08.1973.

Heard learned counsel for the parties and perused the paper book.

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

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

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

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

In view of 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.

There is no dispute between the parties with regard to the loss of dependency calculated by the Tribunal as ₹12,15,000/-. 40% of the said amount is awarded as future prospects i.e. ₹4,86,000/-.

As the quantum of compensation is being revisited, the amounts under the conventional head are made in consonance with the decision of the Supreme Court in *Pranay Sethi's* case (supra). Claimants are entitled to a sum of ₹15,000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium.

In view of the above discussion, the award dated 18.09.2015, is modified to the extent that the amount awarded of ₹13,40,000/- is enhanced by ₹4,31,000/-. The appellants shall be entitled to interest @7.5 % per annum on

the enhanced amount of compensation from the filing of claim petition till the realization of the amount.

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

DECEMBER 10, 2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*