

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

**FAO No. 8073 of 2015 (O&M)
DECIDED ON: DECEMBER 03, 2018**

RENU DEVI AND OTHERS

.....APPELLANTS

VERSUS

PAWAN KUMAR AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. G.S. Sandhu, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent No. 2.

AVNEESH JHINGAN, J (ORAL)

The award dated 23.04.2015 passed by Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') has been assailed by widow, two minor children and mother of Vinod Kumar (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

2. The driver of bus bearing registration No. HP-73-2392 (hereinafter

referred to as 'offending vehicle') and owner of the offending vehicle, have been arrayed as respondents No.1 and 2 in the appeal.

3. The brief facts necessary for adjudication of the present appeal are that on 19.07.2012, Vinod Kumar (deceased) alongwith Pawan was going on a motorcycle bearing registration No. HR-05-AA-7309. Near MIG Gate, Haryana Armed Police, Madhuban, they were following a rashly and negligently driven offending vehicle. The offending vehicle suddenly applied brakes, as a result, the motorcycle driven by Vinod Kumar (deceased) dashed into the offending vehicle from rear side. As a result of impact, Vinod Kumar suffered injuries. He was shifted to Civil Hospital, Karnal from where he was taken to Virk Hospital, Karnal, where he succumbed to his injuries. FIR No. 224, dated 20.07.2012, under Sections 279, 337 and 304-A of the Indian Penal Code, 1860 was registered.

4. A claim petition under Section 166 of the Act was filed by the legal heirs of the deceased.

5. 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 driver and owner of the offending vehicle were held jointly and severally liable to pay the compensation.

6. The Tribunal awarded a compensation to the tune of ₹13,16,000/- alongwith interest @9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium, ₹25,000/- for funeral expenses and ₹3,00,000/- for loss of care and guidance.

7. The claimants failed to prove the occupation and monthly earnings of

the deceased. The Tribunal assessed the monthly earning of the deceased as ₹5500/- per month. Multiplier of 18 was applied and 1/4th deduction for self expenses was made.

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

9. Learned counsel for the appellants contended that no future prospects have been awarded and no amount for loss of estate has been awarded by the Tribunal.

10. Learned counsel for respondent No.2 could not raise any serious objection for awarding future prospects in view of the Supreme Court **National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009.**

He further contended that the amounts awarded under the conventional heads including loss of care and guidance to the children are on the higher side and takes care for the amount to be awarded for future prospects.

11. The Tribunal considered the deceased to be an unskilled labourer and assessed his monthly earning relying upon the minimum wages prevalent in the State of Haryana at the time of accident. It would be pertinent to note here that the minimum wages of an unskilled labourer at the time of accident in the State of Haryana was ₹4967/- per month but the Tribunal assessed the monthly earning as ₹5500/- which is little of higher side. There is no quarrel on the proposition that having due regard to the decision of Supreme Court in **Pranay Sethi's** case (supra) and **Hem Raj vs. Oriental Insurance Company Ltd ;2018 (2) PLR 480**, the claimants are entitled to 40% future prospects, as the deceased being 24 years old. There is no dispute between the parties regarding multiplier applied of 18 and 1/4th deduction made for self expenses.

12. As the quantum of compensation is to be revisited, amounts awarded under the conventional heads are to be made in consonance with **Pranay Sethi's** case (supra). Thus, the claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount can be awarded for loss of care and guidance.

13. In such eventuality, amounts awarded for various conventional heads i.e. ₹4,25,000/- shall come down to ₹ 70,000/- i.e. reduction of ₹3,55,000/-. The future prospects to be awarded comes to ₹3,56,400/-.

14. In such circumstances, no case is made out for further enhancement. The appeal is without merit, hence, dismissed.

DECEMBER 03, 2018

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(AVNEESH JHINGAN)
JUDGE

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