

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

**FAO No. 8184 of 2015 (O&M)
Date of decision:- 16.05.2018**

Geeta and others

---Appellants.

Versus

Dharamvir and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. K. S. Dhanora, Advocate,
for the appellants.

Mr. Ravinder Malik, Advocate,
for respondent No.1.

Mr. R. K. Bashamboo, Advocate,
for respondent No.3.

AVNEESH JHINGAN J. (Oral)

The present appeal arises from the award dated 20.07.2015 passed by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short 'the Tribunal').

On 18.04.2013, a motor vehicular accident took place. Chaman Lal was going on his motorcycle bearing registration No.HR-71A-8312. On reaching near village Haweli, a car bearing registration No.CH-03V-7364 (for short 'Offending Vehicle') being driven in a rash and negligent manner struck the motorcycle. As a result thereof, Chaman Lal sustained grievous injuries and died at the spot. FIR No.82 was registered at Police Station Sadhaura.

A claim petition under Section 166 of the Motor Vehicles Act,

1988 (for short 'the Act') was filed by widow, three minor children.

The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. Owner, driver and the insurer of the offending vehicle are jointly and severally held liable to pay the amount of compensation to the claimants. The Tribunal after considering the facts, awarded a sum of ₹8,43,620/- along with interest at the rate of 7% per annum. The said amount included ₹15,000/- for funeral expenses, ₹50,000 for loss of consortium and ₹75000 for loss of love and affection.

The present appeal has been filed by the appellants for enhancement of compensation.

I have heard learned counsel for the parties, perused the case file and relevant documents produced by them.

Learned counsel for the appellants argued that while awarding the compensation, no future prospects have been added by the Tribunal and no amount has been awarded towards loss of estate.

On the other hand, learned counsel for the insurer argued that no amount for love and affection could have been awarded by the Tribunal. He further contends that amount awarded under the head of loss of consortium is on higher side.

Parties have no dispute with regard to income of the deceased assessed by the Tribunal; multiplier of 15 applied by the Tribunal and 1/4th deduction made for self expenses of the deceased.

The contentions raised by the learned counsel for the appellants, deserve acceptance.

In consonance with the decisions of the Supreme Court in

National Insurance Company Ltd. Vs. Pranay Sethi and Others 2017 AIR

(SC) 5157 and Hem Raj Vs. Oriental Insurance Company Ltd., 2017 DNJ 1102, 25% future prospects are to be added. It has further been held that the amounts of ₹15,000/- for the loss of estate, ₹15,000/- for funeral expenses and ₹ 40,000/- for loss of consortium are to be awarded.

Since the quantum of compensation is being revisited, no amount can be awarded for loss of love and affection as per Pranay Sethi's case (supra).

For the reasons mentioned above, the compensation is recalculated as under:

Sr. No.	Heads	Calculations
(i)	Salary	₹5,212- per month
(ii)	25% added towards future prospects	₹5,212+1,303=6,515/-
(iii)	1/4 th deduction towards self expenses of the deceased.	₹6,515-1,629=4,886/-
(iv)	Multiplier of 15 applied	₹4,886X12X15= 8,79,480/-
(v)	Loss of estate	₹15,000/-
(vi)	Funeral expenses	₹15,000/-
(vii)	Loss of consortium	₹ 40,000/-
	Total Compensation Awarded (iv)+(v)+(vi)+(vii)	₹9,49,480/-

The award dated 20.07.2015 is modified to the extent that the amount awarded of ₹ 8,43,620/- is enhanced to ₹9,49,480/-.

The appellants/claimants would be entitled to interest at the same rate as awarded by Tribunal on the enhanced amount from the date of filing of the claim petition till realization of the amount.

Accordingly, the present appeal is partly allowed to the above extent.

16.05.2018

Riya Grover

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No