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

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1. FAO No.7188 of 2016 (O&M)
Date of Decision: 22.11.2018

Reliance General Insurance Company Ltd.

Appellant

Versus

Charanjit Kaur and others

Respondents

2. FAO No.6087 of 2017 (O&M)

Charanjit Kaur

Appellant

Versus

Parveen Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjeev Kodan, Advocate
for the Insurance Company.

Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellant [in FAO No.6087 of 2017]
for respondents No.1 and 2 [in FAO No.7188 of 2016]

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<u>AVNEESH JHINGAN, J (Oral):</u>

The award dated 18.10.2016 passed by the Motor Accident Claims Tribunal, Kurukshetra [for brevity 'the Tribunal'] has been assailed by the insurer of motorcycle bearing registration No. HR-07T-9554 [hereinafter referred to as 'offending vehicle'] as well as by the claimant i.e. mother of Navjot Singh (deceased).

Both the appeals arise from same award and raise issue of quantum of compensation, hence, are being disposed of by a common order.

The brief facts necessary for adjudication of the present appeals are that on 11.04.2016, Navjot Singh was going from his village to his maternal uncle's house at village Shadipur on his motor cycle bearing registration No.HR-01AF-7300. On his way, he was hit by a rashly and negligently driven offending vehicle. As a result of the accident, he suffered multiple grievous injuries. He was taken to LNJP Hospital, Kurukshetra where he was declared dead. FIR No.113, dated 12.04.2016 was registered at Police Station Kurukshetra University, Kurukshetra.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] was filed. The Tribunal after considering the facts and appreciating the evidence adduced, held that accident was caused due to rash and negligent driven offending vehicle. The owner, driver and insurer of offending vehicle were held jointly and severally liable to pay the compensation.

The Tribunal awarded a sum of ₹14,67,112/- alongwith interest @ 9% per annum. The said amount included ₹1,00,000/- for loss of estate, ₹50,000/- for loss of love and affection and

₹25,000/- towards transportation expenses and last rites. The Tribunal awarded 50% future prospects but it was ordered that the same be kept in FDR and will be released depending upon the decision of the Supreme Court in case of ***National Insurance Company Ltd. Vs. Pushpa and others (2015) 9 SCC 166.***

In the appeal filed by insurer, notice of motion was issued vide order dated 06.12.2016 only to the extent of compensation awarded qua loss of estate i.e. ₹1,00,000/-. The mother of the deceased has filed appeal for enhancement of compensation.

Heard learned counsel for the parties, perused the paper book and relevant documents produced.

Learned counsel for the insurer contended that the amount to be awarded for loss of estate should be restricted to ₹15,000/- in consonance with decision of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.*** He further argued that the future prospects should be restricted to 40%.

Learned counsel for the claimants could not raise any serious dispute with regard to contention raised by learned counsel for the insurer in view of authoritative decisions of the Supreme Court.

Learned counsel for the claimants contended that the compensation awarded by the Tribunal is on the lower side.

The deceased was 19 years old at the time of accident, the income was assessed as ₹7,976/- per month, ½ deduction was made and multiplier of 18 was applied.

The contention raised by learned counsel for the claimants lacks merit. No reasonable ground or cogent evidence has been relied upon for any further enhancement. Moreover, it is to be considered that ₹25,000/- has been awarded for funeral expenses and transportation and another ₹50,000/- has been awarded for loss of love and affection to mother.

In view of decision of the Supreme Court in ***Pranay Sethi's*** case (supra), the said amount for funeral expenses is on the higher side and no amount can be awarded for love and affection.

Keeping in view the facts and circumstances of the case, no case is made out for further enhancement.

The contention raised by learned counsel for the insurer deserves acceptance. Having due regard to decision of the Supreme Court in ***Pranay Sethi's*** case (supra), the compensation towards loss of estate is restricted to ₹15,000/-.

At this juncture, instead of sending the matter back to the Tribunal with regard to future prospects, the same is being decided in the present appeal only. Keeping in view the age of the deceased at the time of accident and as per decisions of the Supreme Court in ***Pranay Sethi's*** case (supra) and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, 40% future prospects are awarded.

The compensation is being re-calculated as follows:-

Particulars	***Amount (in ₹)***
Monthly income of the deceased assessed by the Tribunal	7,976/-
40 % Future Prospects	3,190/-
Sub Total	11,166/-
1/2 deduction for self expenses	5,583/-
Monthly Dependency	5,583/-
Annual Dependency	66,996/-
Applying multiplier of 18	**12,05,928/-**
Loss of Estate	**15,000/-**
Transportation expenses and Funeral expenses as awarded by the Tribunal	**25,000/-**
Amount awarded by the Tribunal towards loss of love and affection	**50,000/-**
Grand Total	**12,95,928/-**

The award dated 18.10.2016 is modified to the extent that claimants shall be entitled to the sum of ₹12,95,928/- alongwith interest as awarded by the Tribunal, in the manner indicated above.

The appeal filed by the claimants is dismissed and the appeal filed by the Insurance Company is partly allowed.

[AVNEESH JHINGAN]
JUDGE

November 22, 2018
pankaj baweja

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No