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

**FAO No.996 of 2015
Date of Decision: 31.10.2018**

Naina Devi and others

Appellants

Versus

Deepak Rai and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Shiv Kumar, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J (Oral) :

The present appeal has been filed against award dated 05.05.2014 passed by the Motor Accident Claims Tribunal, Faridabad (for brevity 'the Tribunal').

2. The widow and two sons of Tokhan Sahani are the appellants. Driver-cum-Owner of vehicle bearing registration No. DL-1LM-0223 (hereinafter referred to as 'the offending vehicle') and the insurer of the offending vehicle i.e. M/s Shriram General Insurance Company Limited have been arrayed as respondents No.1 and 2 in the appeal.

3. The brief facts relevant for adjudication of the present appeal are that on 12.05.2012, Tokhan Sahani alongwith his son

Bhawan was going to the market on their separate bicycles. When they reached near Gurudwara E-Block, Town No.2, he was hit by rashly and negligently driven offending vehicle. He suffered fatal injuries.

4. A claim petition under Section 166 of Motor Vehicles Act, 1988 (for brevity 'the Act') was filed. After considering the facts of the case, the Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. The Driver-cum-Owner and Insurer were held jointly and severally liable to pay the compensation amounting to ₹4,15,623/- alongwith interest @7.5% per annum. The amount awarded included ₹25,000/- for loss of consortium and ₹5,423/- amount spent on treatment of the deceased.

5. Learned counsel for the parties have not disputed the age of the deceased i.e. 60 years; monthly earning assessed; deduction made for self expenses and the multiplier applied.

6. Learned counsel for the appellants argued that no future prospects have been awarded and the compensation towards conventional heads is on lower side.

7. Learned counsel for the Insurer defended the award and vehemently resisted any further enhancement.

8. The argument raised by learned counsel for the appellants, deserves acceptance in view of decision of the Supreme Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157** and in **Hem Raj Vs.**

Oriental Insurance Company Ltd. 2018 (2) PLR 480. The deceased was 60 years of age and was having the established income, 10% future prospects are awarded. In addition to it, the claimants are entitled for ₹15,000/- each for funeral expenses and loss of estate and ₹40,000/- is awarded to the widow for loss of consortium.

9. Since there is no dispute with regard to amount calculated by the Tribunal towards loss of dependancy i.e. ₹3,85,200/-, 10% of the said amount is awarded for future prospects i.e. ₹38,520/-. The amount towards conventional heads are enhanced from ₹25,000/- to ₹70,000/-.

10. The award dated 05.05.2014 is modified to the extent that amount awarded of ₹4,15,623/- by the Tribunal is enhanced by ₹83,520/-.

11. The claimants shall be entitled to receive the enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

12. The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

October 31, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |