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

**FAO No.320 of 2017
Date of decision:- 16.05.2018**

United India Insurance Co. ltd.

---Appellant.

Versus

Jasbir Kaur and others

---Respondents.

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Ahwani Talwar, Advocate,
for the appellant.

Mr. Sagar, Aggarwal, Advocate,
for respondent Nos. 1 and 2.

Mr. Rajesh Duhan, Advcoate,
for respondent Nos. 3 and 4.

AVNEESH JHINGAN J. (Oral)

The present appeal is filed by the Insurance Company (respondent No.3 in the claim petition) against the award dated 15.10.2016 passed by Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal').

Brief facts of the case are that on 31.03.2016, a motor vehicular accident took place. Harpreet Singh, aged 23 years, was driving his motorcycle bearing registration No.HR-09D-4888, at about 04.40 p.m. near PWD rest house, a truck bearing registration No.PB-12M-7284 being driven in a rash and negligent manner, struck the motorcycle. As a result of the accident, he fell down and suffered multiple and grievous injuries. He was taken to Civil Hospital, Guhla from there he was referred to Rajendra

Hospital, Patiala, where he succumbed to injuries. FIR No. 47 dated 31.03.2016 was registered in Police Station, Guhla.

Unfortunate parents filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (in short ' the Act').

It was noted that deceased was a B.Tech (Mech) student of 6th semester and also doing tuition work. It was claimed that he was earning ₹20,000/- per month. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. It was proved that the deceased was a student of B.tech (Mech) 6th semester though his earning was not proved. The Tribunal assessed the monthly income of the deceased as ₹15,000/- and awarded a sum of ₹26,05,000/- along with interest at the rate of 9% per annum. The said amount included ₹25,000/- for transportation, funeral and last rites of the deceased, ₹ 1 lac for loss of estate and ₹50,000/- for loss of love and affection.

Learned counsel for the appellant argued that income assessed by the Tribunal is on higher side as the minimum wages prevalent at the time of accident were much less. He further contended that 50% future prospects has been added instead of 40%. His further grievance is that amount awarded under the conventional heads is on higher side.

On the other hands learned counsel for the claimants argued that deceased was a young boy and student of B.Tech (Mech). He had bright future in such case he can not be taken as unskilled labourer. Learned Counsel has not raised any serious issue regarding future prospects and conventional heads.

The contentions raised by learned counsel for the appellant deserve acceptance and in view of the decision of 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***, 40% future prospects are to be added. It has further been held that the amounts of ₹15,000/- for the loss of estate and ₹15,000/- for funeral expenses are to be awarded. No amount can be awarded for loss of love and affection as per the ***Pranay Sethi's case (supra)***.

The contention with regard to income of the deceased raised by learned counsel for the appellant cannot be accepted. It can not be denied that in every case where the earning is not proved, same is to be taken into the category of unskilled or semi skilled labourer. In the present case the deceased was young boy having a bright future as a student of B.Tech (Mech). This itself shows that had he been alive his career would be of engineer. In such circumstance, the income has rightly been assessed by the Tribunal.

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

Sr. No.	***Heads***	***Calculations***
(i)	Salary	₹15,000/- per month
(ii)	40% added towards future prospects	₹15,000+6,000=21,000/-
(iii)	1/2nd deduction towards self expenses of the deceased as he was bachelor	₹21,000-10,500=10,500/-
(iv)	Multiplier of 18 applied	₹10,500X12X18= 22,68,000/-
(v)	Conventional head (i.e. ₹15,000/- for loss of estate and ₹ 15,000/-for funeral expenses)	₹ 30.000/-
	Total Compensation Awarded	**₹22,98,000/-**

The award dated 15.10.2016 is modified to the extent that the amount awarded of ₹26,05,000/- is reduced to ₹22,98,000/-.

The appellants/claimants would be entitled to interest at the same rate as awarded by the Tribunal on the ₹ 22,98,000/- 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 **(AVNEESH JHINGAN)**
Riya Grover **JUDGE**

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