

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

FAO-348-2017 (O&M)

Date of decision:- 29.05.2018

Reena and others

...Appellants

Versus

Harjinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Namit Khurana, Advocate,
for the appellants.

Mr. Gaurav Sethi, Advocate,
for respondent No. 1.

Ms. Suman Jain, Advocate,
Mr. Shubham Jain, Advocate,
for respondent No. 2.

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AVNEESH JHINGAN, J. (ORAL)

The present appeal has been filed against the award dated 31.05.2016 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short 'the Tribunal').

2. The brief facts of the case are that in a motor vehicle accident that took place on 25.07.2014, Pardeep Kumar, aged 32 years lost his life. He alongwith Banta Ram was going on his motorcycle bearing registration No. HR-02-V-2303. At about 9.40 PM, the motorcycle struck against a parked truck bearing registration No. HR-46-C-3645. The said offending truck was parked in the middle of road near Satsang Vihar Colony on Ambala-Jagadhri road. The parking lights were not on and there was no reflector light or indicator. As a result of the accident, Pardeep Kumar suffered grievous injuries. He was taken to Civil Hospital, Jagadhri from where he was referred to

PGI, Chandigarh. He died on the way to PGI. FIR No. 472 dated 26.07.2014 was registered at Police Station, City, Jagadhri.

3. The widow, two minor children and father of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). The Tribunal held that the accident occurred due to negligent parking of the offending truck. The income of the deceased was assessed as ₹ 7,000/- per month. 1/3rd deduction for self expenses was made. Applying a multiplier of 16, an amount of ₹ 10,76,064/- alongwith interest at the rate of 7.5% per annum was awarded by the Tribunal to the appellants. The amounts awarded included ₹ 50,000/- for loss of love and affection to the father, ₹1 lac for loss of consortium, ₹10,000/- for loss of estate and ₹20,000/- for transportation and last rites.

4. The learned counsel for the appellants contended that no future prospects have been added by the Tribunal while awarding compensation.

5. The learned counsel for the respondents argued that the Tribunal erred in awarding ₹ 50,000/- for loss of love and affection and amount awarded for loss of consortium is on higher side.

6. The contentions raised are duly supported by the decision of the Supreme Court in *National Insurance Company Limited Vs Pranay Sethi and others*, 2017 AIR (SC) 5157. The deceased was 32 years old. Hence, 40% future prospects are to be added. No amount can be awarded for loss of love and affection. The appellants would be entitled to ₹ 70,000/- under conventional heads i.e. ₹15,000/- for loss of estate, ₹40,000/- for loss of consortium and ₹ 15,000/- for funeral expenses.

There is no dispute with regard to the loss of earning awarded to the tune of ₹ 8,96,064/-. 40% of the said amount is awarded as future prospects i.e. ₹ 3,58,425/-. The conventional heads is restricted to ₹ 70,000/-.

7. The award dated 31.05.2016 is modified to the extent that the amount awarded to the tune of ₹ 10,76,064/- is enhanced by ₹ 2,48,425/-.

8. The appellants would be entitled to enhanced amount alongwith interest already awarded by the Tribunal i.e. at the rate of 7.5% per annum from the date of filing of the claim petition till realization of the amount.

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

(AVNEESH JHINGAN)
JUDGE

29.05.2018

Amodh

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