

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

**FAO No. 4186 of 2017
DECIDED ON: DECEMBER 18, 2018**

MANU DEVI AND OTHERS

.....APPELLANTS

VERSUS

DESH RAJ AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Parshant Singh Chauhan, Advocate
for the appellants.

Mr. Preet Harinder Singh Pannu, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN J. (ORAL)

The legal heirs of Virender (deceased) have assailed the award dated 30.08.2016 passed by the Motor Accident Claims Tribunal, Rewari (for brevity 'the Tribunal') in MACT Petition No. 44 of 2015.

The widow and two minor children of the deceased are the appellants. The driver of truck bearing registration No. HR-36-X-3975 (hereinafter referred to as 'offending vehicle'); owner and insurer (i.e. Bajaj Allianz General Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents

No. 1 to 3 respectively in the appeal. The mother of the deceased has been arrayed as respondent No.4 in the appeal.

The facts emanating from the record are that on 27.05.2015 Virender was going on bicycle to his village Bhairampur Bharangi. On his way, he was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he sustained grievous injuries and died at the spot. FIR No. 118, dated 27.05.2015 was registered at Police Station Bawal.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded compensation of ₹8,04,620/- alongwith interest @ 7.5% per annum. The amount awarded included ₹20,000/- for funeral expenses and transportation.

The Tribunal opined that the deceased was in the age group of 36-40. His monthly income was assessed as ₹5812/-, 1/4th deduction was made for self-expenses and a multiplier of 15 was applied.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants argues that no future prospects have been awarded and no amount has been awarded for loss of estate and for loss of consortium.

Learned counsel for the insurer defends the award but could not raise any serious dispute for awarding future prospects in consonance with the

decision of the Supreme Court in *National Insurance Co. Ltd. vs. Pranay Sethi and others;* 2017 (4) RCR (Civil) 1009 and *Hem Raj vs. Oriental Insurance Co. Ltd.* 2018 (2) PLR 480. His grievance is that the amount awarded for funeral expenses is on higher side.

Having due regard to the decision of the Supreme Court in *Pranay Sethi's* and *Hem Raj's* cases (supra), 40% future prospects are awarded. There is no dispute between the parties with regard to the loss of dependency calculated by the Tribunal i.e. ₹7,84,620/-. 40% of the said amount is awarded i.e. ₹3,13,848/-.

Claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium. Net result is that the amount awarded of ₹20,000/- under the conventional heads is enhanced by ₹50,000/-.

The award dated 30.08.2016 is modified to the extent that amount of ₹8,04,620/- awarded by the Tribunal is enhanced by ₹3,63,848/-. The appellants shall be entitled to enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is partly allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

DECEMBER 18, 2018
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Whether speaking/reasoned:
Whether reportable :

Yes / No
Yes / No