

238

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

FAO No.4931 of 2017

Date of Decision: 16.11.2018

Balwinder Kaur and others

Appellants

Versus

Simran and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Swarn Sandhir, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The appeal is against award dated 01.04.2017 passed by
Motor Accident Claims Tribunal, Patiala (for brevity 'the Tribunal').

Legal heirs of Daler Singh are the appellants. The driver
of motorcycle bearing registration No. PB-11BV-4315 (hereinafter
referred to as 'offending vehicle'); owner of offending vehicle and
insurer of the offending vehicle i.e. IFFCO TOKIO General Insurance
Company Ltd. have been arrayed as respondents No.1 to 3
respectively in the appeal.

The brief facts necessary for adjudication of the present
appeal are that on 24.06.2016, Daler Singh was going towards his
village Shutrana on his motorcycle. On his way, he was hit by a
rashly and negligently driven offending vehicle. As a result of the

accident, he suffered grievous injuries and was taken to Community Health Centre, Patran where he was declared brought dead. FIR was registered.

Widow, three minor children and parents filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'). The Tribunal after considering the facts and appreciating the evidence adduced on record held that accident had occurred due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹15,21,000/- alongwith interest @ 9% per annum. The amount awarded included ₹25,000/- for funeral expenses, ₹1,00,000/- for loss of love and affection and ₹1,00,000/- for loss of consortium. The Tribunal assessed monthly earning of the deceased as ₹9,000/-, relying upon the minimum wages for a skilled labourer prevalent at the time of accident in the State of Punjab. 1/4th deduction for self expenses was made and multiplier of 16 was applied.

Learned counsel for the appellants contended that no future prospects have been awarded.

Learned counsel for the insurer defended the award and contended that the amounts awarded under the conventional heads are on higher side and no amount for loss of love and affection should be awarded.

The contention raised by learned counsel for the

appellants deserves acceptance. In view of decision of the Supreme Court in case National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157 and Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480, 40% future prospects are awarded. There is no dispute between the parties with regard to loss of dependancy calculated by the Tribunal i.e. ₹12,96,000/-. 40% of the said amount i.e. ₹5,18,400/- is awarded as future prospects.

As the quantum of compensation is being revisited, the amounts to be awarded under conventional heads are modified in consonance with the decision of the Supreme Court in Pranay Sethi's case (supra). The claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- is awarded to widow for loss of consortium.

The award dated 01.04.2017 is modified to the extent that compensation of ₹15,21,000/- is enhanced by ₹3,63,400/-.The enhanced amount shall be disbursed in the same proportion to the claimants as was held by the Tribunal.

The claimants shall also be entitled to interest on the enhanced amount as was awarded by the Tribunal.

The appeal is partly allowed.

[AVNEESH JHINGAN]
JUDGE

November 16, 2018

pankaj baweja

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