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

**FAO No. 5891 of 2017 (O&M)**
**DECIDED ON: DECEMBER 18, 2018**

**SUSHMA AND OTHERS**

**.....APPELLANTS**

**VERSUS**

**JATINDER SINGH AND OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.**

Present: Mr. Ruhani Chadha, Advocate
for the appellants.

Mr. Amit Kumar Goyal, Advocate
for respondent No.3.

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**AVNEESH JHINGAN, J (ORAL)**

The award dated 26.10.2016 passed by the Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (for short 'the Tribunal') has been assailed by the widow, minor daughter and mother of Nirpal Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The owner of Truck bearing registration No. PB-08-CP-5899 (hereinafter referred to as 'offending vehicle'); driver and insurer (i.e. The New India Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts necessary for adjudication of the present appeal are that on 18.11.2015 Nirpal Singh was going on his motorcycle bearing registration No. PB-32-K-3433. He was being followed by his relative Yudhveer Singh on a separate motorcycle. When he reached near Dosanjh Kalan, his motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, he fell down and his head was crushed under the wheel of the offending vehicle. He died at the spot. FIR No. 151, dated 18.11.2015 was registered at Police Station Sadar, Phagwara.

The legal heirs of Nirpal Singh (deceased) filed a claim petition before the Tribunal under Section 166 of the Act.

The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the 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 compensation of ₹14,76,200/- alongwith interest @6% per annum. The amount awarded included ₹2,75,000/- under the conventional heads, which included ₹2,50,000/- for loss of love, affection and guidance.

The claimants in the claim petition pleaded that the deceased was 45 years old at the time of accident. He was working as Machine man with M/s Sukhjit Starch and Chemicals Ltd. The monthly earning of the deceased before the Tribunal was proved to be as ₹10,417/- per month. 1/3rd deduction was made for self-expenses and 30% future prospects were awarded, multiplier of 14 was applied.

Heard learned counsel for the parties and perused the record.

Learned counsel for the appellants contends that there is calculation error in the award. The tribunal awarded 30% future prospects but while calculating the compensation the same has not been considered.

Learned counsel for the insurer contends that the amounts awarded under the conventional heads are on higher side and no amount can be awarded for loss of love, affection and guidance.

There is no dispute between the parties regarding the monthly income of the deceased as ₹10,417/-; multiplier of 14 and 1/3rd deduction made for self-expenses.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are made in consonance with the decisions 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 Company*** **Ltd; 2018 (2) PLR 480.** Hence, ₹15,000/- each is awarded for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium. 30% future prospects are awarded. No amount can be awarded for loss of love, affection and guidance.

In view of afore-said discussion, the compensation is recalculated as under:

| | **Head** | **Compensation awarded** |
|---|---|---|
| (i) | Income | ₹10,417/- per month |
| (ii) | Future prospects at 30% | ₹3125/- per month |
| (iii) | Total Income | ₹13,542/- per month |
| (iv) | Deduction of personal expenses | ₹4514/- (i.e. 1/3rd of total income) |
| (v) | Multiplier | 14 (as per age of deceased) |
| (vi) | Total Dependency | ₹9028x12x14=₹15,16,704/- |
| (vii) | Funeral expenses | ₹15,000/- |
| (viii) | Loss of estate | ₹15,000/- |
| (ix) | Loss of Consortium | ₹40,000/- |
| | Total Compensation awarded | ₹15,86,704/- |

The award dated 26.10.2016 is modified to the extent that the amount awarded of ₹14,76,200/- is enhanced to ₹15,86,704/-. The appellants shall be entitled to interest @7.5 % per annum on the enhanced amount of compensation from date of the filing of 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 Yes/No***
***Whether reportable Yes/No***

**CM No. 19107-CII of 2017 in**
**FAO No. 5891 of 2017**

**SUSHMA AND OTHERS V. JATINDER SINGH & ORS**

Present: Mr. Ruhani Chadha, Advocate
for the applicants/appellants.

Mr. Amit Kumar Goyal, Advocate
for respondent No.3.

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In view of averments made in the application the same is allowed and delay of 126 days in filing the appeal is condoned.

CM stands disposed of.

**(AVNEESH JHINGAN)**
**JUDGE**

**DECEMBER 18, 2018**
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