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

**FAO No.4311 of 2018
Date of Decision: 16.11.2018**

Guddi and another

Appellants

Versus

Raj Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Mandeep Kaur, Advocate for
Mr. Pankaj Mehta, Advocate
for the appellants.

Mr. Pradeep Kumar, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The unfortunate parents who lost their young son Kuldeep in a motor vehicular accident are in appeal against award dated 22.01.2018 passed by Motor Accident Claims Tribunal, Hisar (for brevity 'the Tribunal').

The driver of Bus bearing registration No. RJ-07PA-2255 (hereinafter referred to as 'offending vehicle'); owner of offending vehicle and insurer of offending vehicle i.e. Universal Sampo General Insurance Co. 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 offending vehicle owned by respondent No.2 was going on from Hisar to Chandigarh. It stopped near Titram Mor near “Kale Da Dhaba” at about 8:30 A.M. Kuldeep was a *Khalashi* and he started washing the bus. Respondent No.1 started the bus in rash and negligent manner and hit Kuldeep. Due to the impact, Kuldeep was crushed under the front tyre of the offending vehicle. He was taken to General Hospital, Kaithal from where he was referred to PGI, Chandigarh but he succumbed to his injuries. FIR No.120, dated 18.12.2016 was registered at Police Station Titram, Kaithal.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act') was filed by parents of the deceased. The Tribunal after considering the facts and appreciating the evidence adduced on record held that accident 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 compensation. The Tribunal awarded a sum of Rs.10,95,000/- alongwith interest @ 6% per annum. The amount awarded included Rs.15,000/- for funeral expenses.

Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

Learned counsel for the appellants contended that no future prospects have been awarded and no amount for loss of estate has been awarded. He also contended that the rate of interest awarded by the Tribunal is also on the lower side.

Learned counsel for the insurer defended the award and

resisted any further enhancement.

The deceased was 23 years of age and was unmarried hence ½ deduction for self expenses and multiplier of 18 was rightly applied. The contention raised by learned counsel for the appellants deserves acceptance. In view of decisions of the Supreme Court in case of **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 as deceased was 23 years of age. As income assessed by Tribunal is appropriate, therefore loss of dependancy as calculated by the Tribunal shall remain intact i.e. Rs.10,80,000/-, hence 40% of this amount i.e. Rs.4,32,000/- is awarded as future prospects.

In view of the decision of the Supreme Court in **Pranay Sethi's** case (supra), appellants are entitled to Rs.15,000/- each for funeral expenses and loss of estate.

The award dated 22.01.2018 is modified to the extent that compensation amounting to Rs.10,95,000/- is enhanced by Rs.4,47,000/-.

The contention raised by learned counsel for the appellants that interest @ 6% awarded by the Tribunal is on the lower side deserves acceptance. Keeping in view the rate of interest of banks prevalent at the time of accident, it is deemed appropriate to arrive at just and equitable compensation. As such, interest @ 7.5% per annum is awarded.

The claimants would be entitled to interest on the entire amount including the enhanced amount @ 7.5% per annum from the date of filing of claim petition till the realization of amount.

The appeal is allowed in the manner indicated above.

[AVNEESH JHINGAN]
JUDGE

November 16, 2018

pankaj baweja

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