

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 453 of 2018

DECIDED ON: NOVEMBER 27, 2018

JASPREET KAUR AND OTHERS

.....APPELLANTS

VERSUS

PARAMJIT SINGH & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Pradeep Goyal, Advocate
for respondent No.3-Insurance Company

AVNEESH JHINGAN, J (ORAL)

The widow, minor son and mother of Harmesh Singh(deceased) are in appeal against the award dated 21.07.2017 passed by Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

2. The driver of truck bearing registration No. HR-37-D-4977 (hereinafter referred to as 'offending vehicle'); owner and insurer of the

offending vehicle i.e. United India Insurance Co. Ltd., have been arrayed as respondents No.1 to 3 respectively in the appeal.

3. The brief facts necessary for adjudication of the present appeal are that on 07.04.2016 Harmesh Singh alongwith Manjit Singh & Ravinder Singh was going towards Morinda in a vehicle bearing registration No. PB-12-M-8954, which was being driven by Surinder Kumar. When they reached village Nalni, a rashly and negligently driven offending vehicle struck against their vehicle. As a result of the impact, Harmesh Singh suffered multiple injuries. He was taken to Rajindra Hospital, Patiala, from where he was referred to PGI, Chandigarh. During treatment at PGI, Chandigarh, Harmesh Singh died.

4. The widow, minor son and mother of Harmesh Singh (deceased) filed a claim petition under Section 166 of the Act before the Tribunal.

5. The Tribunal after considering the facts and appreciating the evidence adduced, held that the accident was caused 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 compensation to the tune of ₹10,85,000/- alongwith interest @7% per annum. The amount awarded included ₹ 1,00,000/- for loss of consortium to the widow and ₹ 25,000/- on account of funeral expenses.

6. The age of deceased was taken as 35 years. The monthly income of the deceased was assessed as ₹ 7500/- per month. 1/3rd deduction was made for self expenses and a multiplier of 16 was applied.

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

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

9. Learned counsel for the respondent-Insurance Company argued that the amount awarded under the conventional heads should be 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.

10. Having due regard to the decisions of the Supreme Court in above quoted case, 40% future prospects are awarded as the deceased was 35 years of age and was self-employed. Claimants are also entitled to a sum of ₹15,000/- each for funeral expenses and for loss of estate. Further ₹ 40,000/- is awarded to the widow for loss of consortium.

11. As there is no dispute between the parties with regard to loss of dependency calculated by the Tribunal of ₹ 9,60,000/-, 40% of the said amount i.e. ₹ 3,84,000/- is awarded for future prospects.

12. As the quantum of compensation is being revisited, the compensation with regard to conventional heads are made in consonance with the judgments of the Supreme Court in the cases of Pranay Sethi (supra) and Hem Raj (Supra) i.e. ₹ 70,000/-

13. The award dated 21.07.2017 is modified to the extent that amount awarded of ₹10,85,000/- is enhanced by ₹3,29,000/-. The appellants/claimants shall be entitled to enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till realization of amount.

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

(AVNEESH JHINGAN)
JUDGE

NOVEMBER 27, 2018
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No