

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.476 of 2018

Date of decision: 28.11.2018

Jasbir Kaur & Ors.

...Appellants

Versus

Shakti and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Lalit Garg, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J. (ORAL)

The award dated 24.10.2017, passed by Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') has been assailed by the legal heirs of Harmesh Singh for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity, 'the Act').

Widow, two minor children and parents of Harmesh Singh are the appellants. Driver of car bearing registration No. PB65X/4105 (hereinafter referred the 'offending vehicle') owner and insurer of the offending vehicle i.e New India Assurance Company 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 11.03.2017, Harmesh Singh along with his younger brother Gurmail Singh was going on motor cycle bearing registration No. PB-11AB/5056, from village Rajgarh towards Rajpura. On their way, the

motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, both suffered injuries. Due to the injuries sustained in the accident, Harmesh Singh died at the spot. FIR No. 27 dated 12.03.2017, under Sections 279, 427, 304-A IPC was registered at Police Station Shambhu.

The legal heirs of the deceased filed a claim petition 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 compensation to the tune of ₹ 13,77,500/- along with interest @ 6% per annum. The amount awarded included ₹ 1,00,000/- each for loss of consortium and loss of love and affection; ₹ 5,000/- for loss of estate and ₹ 25,000/-for funeral expenses.

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

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

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

It is pertinent to mention here that the parties have not disputed the loss of dependency calculated by the Tribunal.

The contention raised by the learned counsel for the appellants deserves acceptance. Having due regard to the decision of the Supreme

Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Others** 2017 (4) RCR (Civil) 1009 and **Hem Raj Vs. Oriental Insurance Company Ltd., 2018 (2) PLR 480**, 25% future prospects are awarded as the deceased was about 40 years old at the time of accident. As the loss of dependency calculated by the Tribunal i.e. ₹ 11,47,500/- is not in dispute, hence 25% of the said amount is awarded for future prospects i.e. ₹2,86,875/-.

As the quantum of compensation is being revisited, the amount awarded under the conventional heads are made in consonance with decision of Supreme Court in **Pranay Sethi's** case (supra). The appellants are entitled for 15,000/- each for funeral expenses and for loss of estate ₹ 40,000/- is awarded for loss of consortium to the widow. The net result is that the amounts awarded under the conventional heads ₹2,30,000/- is reduced to ₹70,000/-.

The award dated 24.10.2017 is modified to the extent that the amount of ₹13,77,500/- awarded by the Tribunal is enhanced by ₹1,26,875/-The appellants shall be entitled to the enhanced compensation along with interest @ 7.5 % per annum from the date of filing of the claim petition till realization of amount.

Appeal is disposed of in the aforesaid terms.

November 28, 2018
Poonam (II)

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No