

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

FAO No.7832 of 2017 (O&M)

Date of decision: 18.05.2018

Partap Singh and others

.... Appellants

Versus

Sandeep and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Devender Arya, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against award dated 17.04.2017 passed by Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal').

The legal heirs of Sushila Devi filed the appeal for enhancement of compensation awarded by the Tribunal in a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') on account of her death.

The brief facts of the case are that on 11.11.2013, Sushila Devi was going along with Sanjay on a motorcycle bearing registration No.HR-16G-7271. At about 6.00 p.m., when they reached near Ram Nagar, the said motorcycle was struck by another motorcycle bearing registration No.HR-19A-8654. As a result of the accident, Sushila Devi suffered grievous

injuries and lost her life. FIR was registered.

A claim petition was filed under the Act. The Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 40 years. Multiplier of 15 was applied and 1/3rd deduction for self expenses was made. The Tribunal awarded a sum of Rs.9,60,060/- along with interest @ 7.5% per annum. The amount awarded included Rs.1,20,000/- under the conventional heads.

The present appeal has been filed for enhancement of compensation.

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

Learned counsel for the appellants argued that the deceased was doing animal husbandry, milk dairy and agriculture work. The income has been assessed as Rs.7,000/- per month but no future prospects have been added.

Learned counsel for the insurer of the offending vehicle argued that the amounts awarded under the conventional heads are on the higher side.

Having due regard to the decision of the Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157** and **Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017** since the deceased was in the age group of 40 to 50, hence, 25% future prospects are to be added. Since the quantum of compensation is being revisited, the conventional

heads are restricted to Rs.70,000/-i.e.Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium as held by the Supreme Court in **Pranay Sethi's case (supra)**.

In the appeal, the parties have not disputed the loss of dependency calculated of Rs.8,40,060/- hence, 25% of the said amount is awarded for future prospects i.e. Rs.2,10,015/-. The amount awarded under the conventional heads are restricted to Rs.70,000/- instead of Rs.1,20,000/.

The net effect is that award dated 17.04.2017 is modified to the extent that the amount awarded by the Tribunal of Rs.9,60,060/- is enhanced by Rs.1,60,015/-.

The claimants would be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is party allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

18.05.2018

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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No