

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

FAO No.8607 of 2017 (O&M)

Date of decision: 25.05.2018

Usmani and another

.... Appellants

Versus

Farukh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Brijender Singh, Advocate for
Mr. Ashish gupta, Advocate
for the appellants.

Avneesh Jhingan, J.

The present appeal has been filed against award dated 31.05.2017 passed by Motor Accidents Claims Tribunal, Nuh (hereinafter referred to as 'the Tribunal').

The parents of Talim are in appeal for enhancement of compensation awarded in a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The only issue raised in the present appeal is that the Tribunal while awarding compensation has not added future prospects.

The brief facts of the case are that a motor vehicular accident took place on 16.02.2015. The offending vehicle in the said accident was tractor bearing registration No.HR-28B-6429. As a result of the accident, Talim, aged 16 years, lost his life.

In the claim petition, it was held that accident occurred due to

rash and negligent driving of the offending vehicle. The monthly earning of the deceased was assessed as Rs.5,800/-. ½ deduction for self expenses was made. Multiplier of 18 was applied. The Tribunal awarded a sum of Rs.7,51,400/- along with interest @ 9% per annum. Owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

The present appeal has been filed for enhancement of compensation.

Notice of motion qua respondent No.3 only.

Mr. Gopal Mittal, Advocate, who is present in Court, accepts notice on behalf of respondent No.3. Paper book was handed over to learned counsel for respondent No.3.

With consent of counsel for both the parties, the appeal is taken up for hearing on merits.

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

Learned counsel for the insurer of the offending vehicle argued that the Tribunal erred in awarding Rs.1 lakh for loss of love and affection and Rs.25,000/-awarded for funeral expenses are on the higher side.

The contentions raised by learned counsel for the parties deserve acceptance.

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**, 40% future prospects are to be added. Since there is no dispute

for loss of dependency calculated of Rs.6,26,400/-, hence, 40% of the said amount is awarded for future prospects i.e. Rs.2,50,560/-.

Since the quantum of compensation is being revisited, the amount awarded under the conventional heads are also made in consonance with the decision of the Supreme Court in *Pranay Sethi's case (supra)*. The appellants would be entitled to Rs.15,000/- each for funeral expenses and loss of estate.

The net effect is that award dated 31.05.2017 is modified to the extent that the amount awarded by the Tribunal of Rs.7,51,400/- is enhanced by Rs.1,55,560/-.

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

25.05.2018

anju

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

2. Whether the order is reportable : Yes/No