

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

FAO No.973 of 2018 (O&M)

Date of decision: 29.05.2018

Reena and others

.... Appellants

Versus

Balbir Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Tarun Vir Singh Lehal, Advocate
for the appellants.

Mr.Amit Kundra, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 10.05.2017 passed by Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal').

A motor vehicular accident took place on 03.11.2016, which proved fatal for Gurwinder Singh, aged 38 years. He along with Harnek Singh was going on a motorcycle bearing registration No.PB-12-V-6898. The motorcycle was being driven by Harnek Singh. At about 9.15 p.m., near village Surewal Dabri, a stray animal came on the road, Harnek Singh applied brakes and the motorcycle slipped. Gurwinder Singh received injuries. He was taken to Civil Hospital, Anandpur Sahib where he was declared brought dead.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by widow, minor daughter and parents of the deceased. The Tribunal held that the accident occurred due to rash and negligent driving of Harnek Singh. The owner, driver and insurer of the motorcycle were held jointly and severally liable to pay compensation. The Tribunal assessed the monthly earning of the deceased as Rs.9,000/-. 1/4th deduction was made for self expenses and applying the multiplier of 15, the Tribunal awarded a sum of Rs.13,65,000/- along with interest @ 9% per annum. The amount awarded included Rs.25,000/- towards funeral expenses, Rs.25,000/- towards loss of love and affection and Rs.1,00,000/- for loss of consortium.

The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellants contended that no future prospects have been added by the Tribunal. No other issue is raised.

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

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** since the deceased was 38 years, 40% future prospects are to be added. Since there is no dispute for loss of dependancy calculated by the Tribunal i.e. Rs.12,15,000/-, 40% of the said amount is awarded for future

prospects i.e. Rs.4,86,000/-.

Since the quantum of compensation is being revisited, no amount can be awarded under the head for loss of love and affection. Moreover, the appellants are entitled to Rs.70,000/- under conventional heads i.e.Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium.

The net effect is that award dated 10.05.2017 is modified to the extent that the amount awarded by the Tribunal of Rs.13,65,000/- is enhanced by Rs.4,06,000/-.

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

29.05.2018

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