

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

**FAO No. 6548 of 2012 (O&M)
DECIDED ON: APRIL 04, 2019**

UNITED INDIA INSURANCE COMPANY LTD.

APPELLANT

VERSUS

REKHA AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.C. Gupta, Advocate
for the appellant.

Mr. Vijay Kumar Sheoran, Advocate
for respondents No.1 to 11.

None for respondents No.12 and 13.

AVNEESH JHINGAN, J (ORAL):

The award dated 01.09.2012 passed by the Motor Accident Claims Tribunal, Bhiwani (for brevity 'the Tribunal') has been assailed by the insurer of motorcycle bearing Engine No. CF5F71025917 and Chasis No. MD625MF5X71F68762 (hereinafter referred to as 'the offending vehicle').

Claimants have been arrayed as respondents No. 1 to 11 respectively in the appeal and driver and owner of the offending vehicle have been arrayed as respondents No.12 & 13, respectively.

The brief facts necessary for adjudication of the present appeal are that on 20.08.2007, Partap Singh (deceased) was coming on foot. When he reached in front of the workshop of Haryana Roadways, Loharu, near Bus Stand Loharu, he was struck by the offending vehicle. As a result of the impact, he sustained injuries and succumbed to his injuries. FIR No. 88, dated 20.08.2007 was registered at Police Station Loharu.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed. 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 driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

In the claim petition it was pleaded that the deceased was selling vegetables in a shop at Loharu and was earning ₹15,000/- per month. The claimants failed to substantiate the monthly earning of the deceased. The Tribunal assessed the monthly income of the deceased as ₹4000/- per month; 30% future prospects were awarded, 1/5th deduction for self-expenses was made and multiplier of '13' was applied. The Tribunal awarded a sum of ₹6,73,960/- alongwith interest @6% per annum. The amount awarded included ₹5000/- for transportation and ₹10,000/- each for funeral expenses and for loss of consortium.

Heard learned counsel for the parties and perused the relevant documents produced by them.

Learned counsel for the appellant raised only one issue that the Tribunal erred in awarding 30% future prospects.

Learned counsel for the claimants submits that the amounts awarded under the conventional heads are on lower side.

Having due regard to the decisions of the Supreme Court in *National Insurance Co. Ltd. vs. Pranay Sethi and others;* 2017 (4) RCR (Civil) 1009 and *Hem Raj vs. Oriental Insurance Company Ltd.* 2018 (2) PLR 480; 10% future prospects are awarded, as the deceased was 50 years of age and would fall in category of self employed or having fixed wages.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in *Pranay Sethi's* case (supra). The claimants are entitled to ₹15,000/- each for loss of funeral expenses and for loss of estate. Another sum of ₹40,000/- is awarded for loss of consortium to the widow.

In view of above discussion, compensation is re-calculated as under:

	Head	Compensation awarded
(i)	Monthly income	₹ 4000/- per month
(ii)	Future prospects at 10%	₹ 400/-
(iii)	Total Income	₹ 4400/- per month
(iv)	Deduction of personal expenses	₹ 880/- (i.e. 1/5 th of total income)
(v)	Multiplier	13 (as per age of deceased)
(vi)	Loss of income	3520x12x13= ₹5,49,120/-
(vii)	Funeral expenses	₹15,000/-
(viii)	Loss of estate	₹15,000/-
(ix)	Loss of Consortium	₹40,000/-
	Total Compensation awarded	₹6,19,920/-

The award dated 01.09.2012 is modified to the extent that

amount of ₹6,73,960/- awarded by the Tribunal is reduced to ₹6,19,920/-.

Vide order dated 12.03.2013, disbursement of amount beyond ₹5,00,000/- was ordered to be stayed.

The appellants shall be entitled to the balance amount alongwith interest as awarded by the Tribunal from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

APRIL 04, 2019
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>