

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1707 of 2015 (O&M)

Date of Decision: 26.03.2019

Smt. Reeta Devi and others

.....Appellants

Versus

Som Singh @ Som Nath and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Deepak Basatia, Advocate
for the appellants.

Mr. Balkar Singh, Advocate
for respondents No. 1 and 2.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 27.8.2014 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal').

The appellants are the widow and three minor children of the deceased. Respondents are driver, owner and insurer (i.e. National Insurance Company Limited), of car bearing registration No.HR-58-A(T)-2788 (for short 'the offending vehicle').

The facts with regard to the accident are not disputed by the parties.

In a motor vehicular accident that took place on 18.12.2011 Manoj Sahni, aged 29 years, lost his life. 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.

The Tribunal assessed the monthly earning of the deceased as ₹ 73,000/- per annum, ¼ deduction for self-expenses was made as the deceased was survived by four dependants and multiplier of 17 was applied. The Tribunal awarded a sum of ₹ 9,51,000/- along with interest at the rate of 7.5% per annum. The amount awarded included ₹ 10,000/- for loss of consortium and ₹ 5000/- each for loss of estate and for funeral expenses.

Two issues are raised by learned counsel for the appellants that (i) no future prospects have been awarded and (ii) the amount awarded under conventional heads are on lower side.

Learned counsel for the insurer could not raise any serious dispute in view of the settled proposition of law.

The deceased was 29 years of age and would fall in the category of having fixed wages or self-employed, thus, 40% future prospects are awarded in consonance with the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157** and **Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480.**

There is no dispute with regard to loss of dependency calculated by the Tribunal, 40% of ₹ 9,30,750/- i.e. ₹ 3,72,300/- is awarded for future prospects.

As per the decision of the Supreme Court in **Pranay Sethi's case (supra)** ₹ 15,000/- each for funeral expenses and loss of estate is awarded and ₹ 40,000/- is awarded for loss of consortium.

The amount awarded under conventional heads are enhanced by ₹ 50,000/-. The net result is that the amount awarded by the Tribunal is enhanced by ₹ 4,22,300/-.

The claimants shall be entitled to the enhanced amount alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is disposed of in the aforesaid terms.

26.03.2019
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No