

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 171 of 2015 (O&M)
DECIDED ON: JANUARY 18, 2019

SURINDER KAUR AND OTHERS

.....APPELLANTS

VERSUS

SUBHASH CHAND AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.S. Khosa, Advocate
for the appellants.

Mr. M.B. Jain, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN J. (ORAL)

The legal heirs of Dalip Singh (deceased) are in appeal against the award dated 29.01.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (for brevity 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The driver and insurer of motorcycle bearing registration No. CH03-Z-8546 (hereinafter referred to as 'offending vehicle'); have been arrayed as respondents no. 1 and 2 respectively in the appeal.

The facts emanating from the record are that a motor vehicular

accident took place on 24.06.2009. Dalip Singh, who was going on foot and on his way he was struck by the offending vehicle. As a result of the impact, he received multiple grievous injuries. He was admitted in General Hospital, Sector 16, Chandigarh from where he was referred to Post Graduate Institute of Medical Education and Research, Chandigarh. He succumbed to his injuries on 25.06.2009. FIR No. 164, dated 25.06.2009 was registered at Police Station Sector 36, Chandigarh.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The driver-cum-owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

The Tribunal while awarding compensation assessed the monthly income of the deceased as ₹14,000/- per month, 1/4th deduction was made for self-expenses and multiplier of 9 was applied. The Tribunal awarded compensation of ₹11,44,000/- alongwith interest @ 7% per annum. The amount awarded included ₹5000/- each for loss of consortium and for funeral expenses.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants raised two issues, firstly, that no future prospects have been awarded and secondly, the amounts awarded under the conventional heads are on lower side.

Learned counsel for the insurer defends the award but could not raise any serious objection in view of the settled proposition of law laid down by the Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi and others;**

2017 (4) RCR (Civil) 1009.

There is no dispute between the parties regarding loss of dependency calculated by the Tribunal as ₹11,34,000/-.

As, the deceased was 58 years old at the time of accident, having due regard to the decisions of the Supreme Court in **Pranay Sethi's** case (supra) and **Hem Raj vs. Oriental Insurance Company Ltd 2018 (2) PLR 480;** 15% future prospects are awarded, as he was having a permanent job. 15% of ₹11,34,000/- is ₹1,70,100/-.

As the quantum of compensation is being revisited, the amounts under the conventional heads are awarded in consonance with the decision of Supreme Court in **Pranay Sethi's** case (supra). Claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate. The widow of the deceased is entitled to ₹40,000/- for loss of consortium. Thus, the amount awarded by the Tribunal under the conventional heads i.e. ₹10,000/- is enhanced to ₹70,000/-.

The award dated 29.01.2013 is modified to the extent that amount of ₹11,44,000/- awarded by the Tribunal is enhanced by ₹2,30,100/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum 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

JANUARY 18, 2019
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Whether speaking/reasoned:
Whether reportable :

Yes / No
Yes / No