

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 1489 of 2016
DECIDED ON: MAY 09, 2019

KULWINDER KAUR AND OTHERS

.....APPELLANTS

VERSUS

MANISH KUMAR AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vipul Sharma, Advocate for
Mr. Nitin Mittal, Advocate
for the appellants.

Mr. Pardeep Kumar, Advocate for
Mr. Rajesh K. Sharma, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral)

The award dated 02.11.2015 passed by the Motor Accident Claims Tribunal, Ambala (for brevity 'the Tribunal') has been assailed by the legal representatives of Sukhdev Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, owner and insurer (i.e. National Insurance Company Ltd.) of car bearing registration No. HR-54-B-4044 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal. The parents of the deceased have been arrayed as proforma respondents.

The factum of the accident is not disputed by the parties. A motor vehicular accident took place on 24.11.2014. The accident proved fatal for Sukhdev Singh aged 38 years. The accident was result of rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, it was pleaded that the deceased was a driver and his driving licence was also produced but the claimants failed to prove the occupation and earning of the deceased. The Tribunal assessed the monthly income of the deceased as ₹7000/-; 1/4th deduction for self-expenses was made, as the deceased was survived by five dependents and multiplier of '15' was applied, considering the age of deceased at the time of accident. The Tribunal awarded compensation of ₹9,45,000/- alongwith interest @ 7.5% per annum. Apart from the said amount a sum of ₹ 25,000/- was awarded for funeral expenses, ₹50,000/- for loss of consortium and ₹50,000/- each for loss of love and affection to the widow, two minor children and mother.

The only two issues are involved in the present appeal: (i) no future prospects have been awarded; and (ii) amounts be awarded under the conventional heads as per decision of the Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.

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

Learned counsel for the appellants contends that no future prospects have been awarded and no amount has been awarded for loss of estate.

Learned counsel for the insurer argues that the amounts under the conventional heads be awarded as per the decision of the Supreme Court in **Pranay Sethi's** case (supra) and no amount be awarded for loss of love and affection.

There is no challenge by the parties to the loss of dependency i.e. ₹9,45,000/- calculated by the Tribunal. 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**, 40% of the said amount i.e. ₹3,78,000/- is awarded towards future prospects as the deceased was below 40 years of age and fell in the category of self-employed or person having fixed wages.

As the quantum of compensation is being revisited, it would be appropriate that compensation under the conventional heads be awarded as per decision of the Supreme Court in **Pranay Sethi's case** (supra). The claimants shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- are awarded to the spouse for loss of consortium. No amount is awarded for loss of love and affection.

The award dated 02.11.2015 is modified to the extent that amount of ₹12,20,000/- awarded by the Tribunal is enhanced by ₹1,73,000/-.

The claimants shall be entitled to the enhanced amount

alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

MAY 09, 2019
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Whether speaking/ reasoned : *Yes*
Whether reportable : *No*