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

FAO No.2842 of 2015

Date of Decision : 22.04.2019

Sita Devi and others

Appellants

Versus

Vikram @ Vikka and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.P. Sharma, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent No.2-Insurance Company.

AVNEESH JHINGAN, J (Oral)

The award dated 13.10.2014 passed by the Motor Accident Claims Tribunal, Narnaul [for brevity 'the Tribunal'] has been assailed by legal representatives of Babu Lal seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

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

There is no dispute between the parties with regard to factum of accident. A motor vehicular accident took place on 17.06.2013, which proved fatal for Babu Lal, aged 34 years. The

accident was result of rash and negligent driving of the motorcycle bearing temporary registration No. HR-99TL-5718 [hereinafter referred to as 'offending vehicle']. The owner-cum-driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, the claimants failed to prove occupation and earning of the deceased. The Tribunal, taking a clue from minimum wages prevalent in the State at the time of accident, assessed monthly income of the deceased as ₹5,800/-; 1/4th deduction for self-expenses was made as the deceased was survived by four dependents and multiplier of '16' was applied as the deceased was 34 years old at the time of accident.

The Tribunal awarded compensation of ₹9,75,600/- alongwith interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium; ₹20,000/- on account of transportation and ₹30,000/- towards love and affection.

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.

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

Since the deceased was in the age group of 30-40 years and fell in the category of self-employed or a person having fixed

wages, in consonance with the decision of the Supreme Court in **Pranay Sethi's case** (supra) and **Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480**, 40% future prospects are awarded. As there is no challenge to the loss of dependency i.e. ₹8,25,600/- calculated by the Tribunal, 40% of the said amount i.e. ₹3,30,240/- is awarded for future prospects.

As the quantum of compensation is being revisited, it would be appropriate that amounts 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 widow for loss of consortium. No amount is awarded for loss of love and affection.

The net effect is that amount of ₹1,50,000/- awarded under the conventional heads is reduced to ₹70,000/-.

The award dated 13.10.2014 is modified to the extent that amount of ₹9,75,600/- awarded by the Tribunal is enhanced by ₹2,50,240/-.

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

The appeal is disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

April 22, 2019

pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |