

206

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

**FAO No.916 of 2013 (O&M)
Date of Decision: 14.05.2019**

Rakesh Shukla and another

Appellants

Versus

Sulinder Singh @ Gagli and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Charu Verma, Advocate for
Mr. S.K. Biriwal, Advocate
for the appellants.

None for respondent No.1 inspite of service.

Mr. Arun Takhi, Advocate
for respondents No.2(a) to 2(d).

Mr. Rajan Bhargava, Advocate for
Mr. Vishal Aggarwal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

The award dated 01.02.2012 passed by the Motor Accident Claims Tribunal, Ludhiana [for brevity 'the Tribunal'] has been assailed by children of Saroj Bala (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, LR's of owner and insurer (i.e. Bajaj Allianz

Insurance Company Ltd.) of Tractor bearing registration No. HP-72-0335 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts emanating from the record are that on 08.02.2009, Saroj Bala was travelling in Car bearing registration No. PB-10AX-8965 [hereinafter referred to as 'Car'], the same was being driven by her son. She was going to Village Jandla from Ludhiana. On the way, the Car was struck by the offending vehicle. As a result of the impact, Saroj Bala sustained grievous injuries, she was taken to Civil Hospital, Anandpur Sahib where she succumbed to the injuries. FIR No.9, dated 08.02.2009 was registered at Police Station Nurpur Bedi.

In the claim proceedings, the Tribunal opined that the accident was result of rash and negligent driving of the offending vehicle. It was held that offending vehicle was not insured at the time of accident. The insurer was exonerated from the liability to pay compensation. The owner and driver of the offending vehicle were held liable to pay the compensation.

The claimants proved before the Tribunal that the deceased was 52 years old and was working as a Senior Clerk with Public Works Department (Building and Roads), Ludhiana and her salary was Rs.22,811/-. Her salary was proved by producing Salary Certificate Ex.PW2/A and by deposition of Telu Ram, Senior Assistant from her office. 1/3rd deduction was made for self-expenses as the deceased was survived by two dependents and multiplier of

'11' was applied, which is in consonance with the decision of the Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21**. The Tribunal awarded compensation of ₹20,12,368/- alongwith interest @9% per annum. The amount awarded included ₹5,000/- for funeral expenses.

Heard learned counsel for the parties and perused the record.

Learned counsel for the appellants contends that no future prospects have been awarded and amount awarded for funeral expenses is on the lower side and no amount is awarded for loss of estate.

Learned counsel for the owner (represented through LRs) of the offending vehicle defends the award and resisted any further enhancement.

The contention raised by learned counsel for the appellants deserves acceptance. As per dictum of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157**, as the deceased was in the age group of 50-60 years, 15% future prospects are awarded.

As there is no challenge to the loss of dependency i.e. ₹20,07,368/- calculated by the Tribunal, 15% of the said amount i.e. ₹3,01,105/- is awarded for future prospects.

In consonance with the decision of the Supreme Court in **Pranay Sethi's case** (supra), the claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. The net effect is

- **FAO No.916 of 2013 (O&M)** -

{4}

that amount of ₹5,000/- awarded under the conventional heads is enhanced to ₹30,000/-.

The award dated 01.02.2012 is modified to the extent that amount of ₹20,12,368/- awarded by the Tribunal is enhanced by ₹3,26,105/-.

The claimants shall be entitled to the enhanced amount alongwith interest @ 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

May 14, 2019

pankaj baweja

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