

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

**FAO No. 3492 of 2016
DECIDED ON: FEBRUARY 21, 2019**

BALJIT KAUR AND OTHERS

.....APPELLANTS

VERSUS

INDERJIT SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

AVNEESH JHINGAN J. (ORAL)

Learned counsel for the appellants submits that the liability is joint and several, hence, respondent No.3 is the only contesting respondent.

Notice of motion qua respondent No.3-Insurance Company, only.

Mr. S.S. Sidhu, Advocate, who is present in Court, accepts notice on behalf of respondent No.3-Insurance Company. Let a copy of complete paper book be supplied to him during the course of day.

After going through the paper book and with the consent of learned counsel for the parties the main case is taken up for final hearing today, itself.

The award dated 29.10.2015 passed by the Motor Accident Claims Tribunal, Rupnagar (for brevity 'the Tribunal') has been assailed by the legal

heirs of Beera Singh seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The widow, two minor children and mother of Beera Singh are the appellants. The driver, owner and insurer (i.e. The New India Assurance Company Ltd) of Mahindra Verito Car bearing registration No. PB-12-R-1616 (hereinafter referred to as 'offending vehicle'); have been arrayed as respondents no. 1 to 3 respectively in the appeal.

The brief facts necessary for adjudication of the present appeal are that on 30.11.2014, Beera Singh was going to his village on his motorcycle bearing registration No. PB-23-E-6238. On the way he was hit by a rashly and negligently driven offending vehicle, as a result of the impact, he fell down and sustained grievous injuries and died at the spot. FIR No. 123, dated 01.12.2014 was registered at Police Station Anandpur Sahib.

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 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 the compensation. The Tribunal awarded compensation of ₹9,29,000/- alongwith interest @ 9% per annum. The amount awarded included ₹25,000/- for loss of consortium, ₹25,000/- for funeral expenses and ₹10,000/- for loss of estate.

The age of the deceased was proved as 32 years at the time of accident. The Tribunal assessed the monthly income of the deceased as ₹6000/-, 1/4th deduction for self-expenses was made and multiplier of 16 was

applied.

Learned counsel for the appellants contends that no future prospects have been awarded and the amounts awarded under the conventional heads are on lower side.

Learned counsel for the insurer defends the award and submits that the amounts under the conventional heads should be awarded as per the decision of Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009.**

The contention raised by learned counsel for the appellants deserves acceptance.

There is no challenge to the loss of dependency calculated by the Tribunal as ₹8,64,000/-.

Having due regard to the decisions of the Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009** and **Hem Raj vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480;** 40% future prospects are awarded, as the deceased was below 40 years and falls in the category of self employed or having fixed wages. 40% of 8,64,000/- is ₹3,45,600/-

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in **Pranay Sethi's** case (supra). The claimants are entitled to ₹15000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium. The amount under the conventional heads is enhanced by

₹10,000/-

The award dated 29.10.2015 is modified to the extent that amount of ₹9,29,000/- awarded by the Tribunal is enhanced by ₹3,55,600/-. 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

FEBRUARY 21, 2019
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<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether reportable :</i>	<i>No</i>