

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4730 of 2015

Date of Decision: 18.03.2019

Neelam Kumari and another

.....Appellants

Versus

Hemant Sharma and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.D. Sharma, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.2.

AVNEESH JHINGAN, J.(oral)

The present appeal has been filed against award dated 9.3.2015 passed by the Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as 'the Tribunal').

The appellants are the parents of deceased-Tanuj Kumar.

Respondents No.1 and 2 are the owner-cum-driver and insurer (i.e. The New India Assurance Company Limited) of car bearing registration No.CH03-Q-2134 (for short 'the offending vehicle').

The factum of accident is not disputed by the parties. A motor vehicular accident took place on the intervening night of 22/23.6.2012 due to rash and negligent driving of the offending vehicle. The accident proved fatal for Tanuj Kumar aged 25 years, a student of B.Tech, Mechanical Branch. FIR No.170 dated 23.6.2012 was registered. The owner-cum-driver and insurer were held jointly and severally liable

to pay compensation.

In the claim petition, the Tribunal awarded a sum of ₹ 20,76,561/- along with interest at the rate of 9% per annum. The amount awarded included ₹ 8,86,561/- for medical expenses, ₹ 1,00,000/- for loss of love and affection and ₹ 10,000/- for funeral expenses.

Learned counsel for the appellants has raised only one issue that no future prospects have been awarded.

Learned counsel for the insurer contends that the amount under conventional heads be awarded as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157** and no amount is to be awarded for loss of love and affection.

The contentions raised by learned counsel for the parties deserves acceptance.

The deceased was below 40 years and was a student of B.Tech Mechanical, his income was assessed by the Tribunal. In consonance with 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% future prospects are awarded. As there is no dispute with regard to loss of dependency calculated by the Tribunal of ₹ 10,80,000/-, 40% of the said amount is awarded for future prospects i.e. Rs.4,32,000/-.

As the quantum of compensation is being re-visited, the amount under conventional heads are awarded 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. No amount is awarded for loss of love and

affection. The amount of ₹ 1,10,000/- awarded by the Tribunal is reduced by ₹ 80,000/-.

The net effect is that the amount awarded by the Tribunal of Rs.20,76,561/- is enhanced by ₹ 3,52,000/-The claimants shall be entitled to enhanced amount alongwith interest @ 7.5% per annum from the date of filing the claim petition till the realization of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

18.03.2019

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Whether speaking/reasoned	Yes
Whether Reportable:	No