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

FAO No.4429 of 2016

Date of Decision : 27.03.2019

Anita

Appellant

Versus

Rajesh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Neeraj Madaan, Advocate for
Mr. Pankaj Bali, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 10.12.2015 passed by the Motor Accident Claims Tribunal, Karnal [for brevity 'the Tribunal'] has been assailed by the widow of Dharambir seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

There is no dispute between the parties with regard to facts of the case. A motor vehicular accident took place on 10.08.2013, the same proved fatal for Dharambir, aged 40 years. The accident was caused due to the rash and negligent driving of TATA-407 bearing registration No. HR-39B-4282 [hereinafter referred to as 'offending vehicle']. FIR No.414, dated 10.08.2013

was registered at Police Station City, Bahadurgarh, District Jhajjar.

In the claim proceedings, the claimant failed to prove occupation and monthly earning of the deceased. The Tribunal assessed earning of the deceased as ₹6,700/- per month. Loss of dependency was calculated by the Tribunal as ₹8,04,060/- by making 1/3rd deduction for self-expenses and applying multiplier of '15'. The Tribunal awarded compensation of ₹9,29,060/- alongwith interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium and ₹25,000/- for funeral expenses. The Tribunal held owner, driver and insurer of the offending vehicle jointly and severally liable to pay the compensation.

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

Two issues involved in the present appeal are :

- firstly, that no future prospects have been awarded; and
- secondly, that amounts under the conventional heads be awarded in consonance with the decision of the Supreme Court in case of **National Insurance Company Limited Vs. Pranay Sethi and others** **AIR 2017 SC 5157.**

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,** 25% future

prospects are awarded as the deceased was 40 years of age at the time of accident and would fall under the category of self-employed or a person having fixed wages. Since there is no dispute with regard to loss of dependency calculated by the Tribunal, 25% of ₹8,04,060/- i.e. ₹2,01,015/- are awarded as future prospects.

As the quantum of compensation is being revisited, the amounts under the conventional heads are awarded as per decision of the Supreme Court in Pranay Sethi's case (supra). The claimant shall be entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- are awarded for loss of consortium.

The net effect is that the award dated 10.12.2015 is modified to the extent that the amount of ₹9,29,060/- awarded by the Tribunal is enhanced by ₹1,46,015/-.

The claimant 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

March 27, 2019
pankaj baweja

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