

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

**FAO No.4696 of 2016
Date of Decision: 13.03.2019**

Pinki and others

Appellants

Versus

Surender Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Neeraj Khanna, Advocate for
Mr. Nitin Mittal, Advocate
for the appellants.

Mr. Arjun Attri, Advocate
for respondent No.1.

Mr. Rahul Pathania, Advocate
for respondent No.2.

Mr. Varun Sharma, Advocate for
Mr. Satpal Dhamija, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 19.04.2016 passed by the Motor Accident Claims Tribunal, Ambala [for brevity 'the Tribunal'] has been assailed by the claimants seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

[2] The facts emanating from the record are that in the

intervening night of 17/18.08.2015, Narender alongwith other farmers was going from Baddi to Ludhiana in a Truck bearing registration No. HR-69A-7560 [hereinafter referred to as 'offending vehicle'] loaded with boxes of Mangoes. Narender was sitting with the loaded goods behind the offending vehicle. The offending vehicle was being driven rashly and negligently, as a result, driver lost control over the offending vehicle which turned turtle and all the occupants suffered multiple grievous injuries. Narender succumbed to the injuries and died at the spot. FIR was registered.

[3] A claim petition was filed under Section 166 of the Act. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The owner of the offending vehicle was held liable to pay the compensation. The Insurance Company was absolved from the liability to pay compensation on the ground that the deceased was travelling as gratuitous passenger in the goods vehicle.

[4] In the claim petition, it was pleaded that the deceased was a labourer and was earning ₹20,000/- per month. The claimants failed to substantiate the occupation and monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹6,000/-, 1/4th deduction was made for self-expenses as the deceased was survived by four dependents and multiplier of '15' was applied as the deceased was in the age group of 36 to 41 years at the time of accident. The Tribunal awarded a sum of

₹9,35,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹50,000/- for loss of consortium; ₹50,000 for loss of love & affection and ₹25,000/- for loss of funeral expenses.

[5] Learned counsel for the claimants contends that no future prospects have been awarded by the Tribunal.

[6] Learned counsel for the respondent argues that the amounts under the 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.**

[7] There is no dispute between the parties with regard to loss of dependency i.e. ₹8,10,000/- calculated by the Tribunal. The deceased was below 40 years at the time of accident and would fall under the category of self-employed or a person having fixed wages. Having due regard to the decisions of the Supreme Court in cases of **Pranay Sethi's** case (supra) and **Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,** 40% of ₹8,10,000/- i.e. ₹3,24,000/- are awarded as future prospects.

[8] As the quantum of compensation is being revisited, the amount to be awarded under conventional heads are made in consonance with 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.

[9] The net result is that award dated 19.04.2016 is

modified to the extent that amount of ₹9,35,000/- awarded by the Tribunal is enhanced by ₹2,69,000/-.

[10] The claimants 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.

[11] The appeal is partly allowed in aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

March 13, 2019

pankaj baweja

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