

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 8346 of 2014
Date of decision: 21.1.2019

Gulab Kaur and others

.. Appellants

v.

Shiva Kumar and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Manoj Kumar, Advocate for
Mr. Harish Nain, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The wife and three children of Amrik Singh (deceased) are in appeal against the award dated 31.1.2012 passed by the Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The respondents in the appeal are the owner of truck No. KA-27-A-0829 (hereinafter referred to as 'the offending vehicle'), driver (wrongly mentioned as respondent No. 2 in the Memo of Parties as owner) and the insurer (i.e. United India Insurance Company Ltd.) of the offending vehicle.

Brief facts necessary for adjudication of the present appeal are that on 21.5.2009, Amrik Singh (deceased) was driving Trola bearing registration No. PB13R-9751. The Trola met with an accident with the offending vehicle, which was being driven rashly and negligently. As a

result of the impact, Amrik Singh sustained grievous injuries and died at the spot. FIR was registered.

In the claim petition filed by the claimants, it was pleaded that the deceased was a driver and his age was 42 years. 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 insurer of the offending vehicle was held liable to pay the compensation. The income of the deceased was assessed as ₹4,000/- per month, 1/4th deduction for self- expenses was made and multiplier of '14' was applied. The Tribunal awarded a sum of ₹5,24,000/- along with interest @ 7.5% per annum. The amount awarded included ₹20,000/- under the conventional heads.

Only two issues have been raised by learned counsel for the appellants. Firstly, that no future prospects have been awarded and secondly that amount of ₹20,000/- awarded under the conventional heads are on the lower side.

Learned counsel for the insurer defends the award but could not raise any serious objection in view of the decisions of the Supreme Court in **National Insurance Complanly Limited v. Pranay Sethi and others**, AIR 2017 SC 5157 and **Hem Raj v. Oriental Insurance Company Ltd.**, 2018 (2) PLR 480.

As there is no dispute between the parties on the loss of dependency calculated by the Tribunal as ₹5,04,000/-, having due regard to the decisions of the Supreme Court in **Pranay Sethi** and **Hem Raj's cases (supra)**, considering that the deceased was 42 years old at the time of accident, 25% future prospects are awarded, i.e. ₹1,26,000/-. As per the

decision of the Supreme Court in **Pranay Sethi's case (supra)**, the claimants are awarded ₹15,000/- each for funeral expenses and for loss of estate and ₹40,000/- is awarded for loss consortium to the widow. The net result is that amount of ₹20,000/- awarded under the conventional heads is enhanced to ₹70,000/-.

The award dated 31.1.2012 is modified to the extent that the amount awarded by the Tribunal to the tune of ₹5,24,000/- is enhanced by ₹1,76,000/-. The appellants shall be entitled to the enhanced amount along with interest @ 7.5% per annum from the date of filing of the claim petition till realisation of amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

21.1.2019

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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No