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

**FAO-8519-2014 (O&M)
Date of decision:-13.02.2019**

National Insurance Company Ltd. ....Appellant

Versus

Smt.Mukesh Devi and others ....Respondents

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Deepak Suri, Advocate
for the appellant.

Mr. Saurabh Garg, Advocate
for respondent No. 3 and 4.
****

AVNEESH JHINGAN J. (Oral)

The award dated 14.11.2013 passed by the Motor Accident Claims Tribunal, Gurgaon (for short 'the Tribunal') has been assailed by the Insurer of Car bearing registration No. DL-3CQ-8520 (for short 'the offending vehicle') seeking reduction of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The claimants are respondents No. 1 to 4, driver and the owner of the offending vehicle have been arrayed as respondents No. 5 and 6 in the appeal.

The facts emanating from the record are that on 02.08.2012, Devender was crossing National Highway No. 8 from Kasan Road, when he was struck by the offending vehicle. As a result, he sustained grievous injuries and lost his life. FIR No. 21 dated 03.08.2012 was registered at Police Station Manesar, Gurgaon.

A claim petition was filed under Section 166 of the Act and it was pleaded that the deceased was 35 years old and was employed with M/s Shri Krishan Man Power Services Gurgaon. His income was proved as ₹ 19,000/- per month, 50% future prospects were awarded, 1/4th deduction was made for self-expenses and multiplier of '15' was applied by taking his age as 36 years by relying upon the post-mortem report. Tribunal awarded a sum of ₹ 39,97,500/- along with interest @ 7.5% per annum. The amount awarded included ₹ 25,000/- on account of transportation and funeral expenses, ₹ 1,00,000/- for loss of consortium and ₹ 25,000/- on account of loss of care and guidance for minor children.

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

Learned counsel for the appellant raised grievance that the Tribunal erred 50% future prospects instead of 40%. Further that the amount awarded under conventional heads are on higher side.

Learned counsel for the claimants defended the award and resisted any reduction.

There is no dispute between the parties on income assessed, deduction made and multiplier applied.

The contention of the learned counsel for the appellants deserves acceptance. The deceased was below the age of 40 years and falls in category of self employed or having fixed wages having due regard to the decisions of the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157 and Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,*** 40% future prospects are awarded.

As per the 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. ₹ 40,000/- are awarded to the widow on account of loss of consortium. No amount is awarded on account of loss of care and guidance for minor children.

In view of above discussion, the compensation is recalculated as under:-

Particulars	***Amount (in ₹)***
Monthly income of the deceased as assessed	19,000/-
40 % Future Prospects	7,600/-
Sub Total	**26,600/-**
1/4th deduction for self expenses	6,650/-
Applying multiplier of '15'	**35,91,000/-**
Funeral Expenses	**15,000/-**
Loss of Estate	**15,000/-**
Loss of consortium	**40,000/-**
Grand Total	**36,61,000/-**

The award dated 14.11.2013 is modified to the extent that the amount of ₹ 39,97,500/- awarded by the Tribunal is reduced to ₹ 36,61,000/-.

The appeal is allowed.

13th February, 2019 **(AVNEESH JHINGAN)**
shabha **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*