IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.101

FAO-8576-2014
Date of decision: 25.01.2019

Rajesh Devi and others ....Appellants

versus

Bharatpal and others ....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. J.P. Sharma, Advocate
for the appellants.

Mr. Vishwajit Bedi, Advocate
for respondent No.3-Insurance Company.

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DEEPAK SIBAL, J. (Oral)

Through the present appeal, the appellants/claimants seek enhancement in the compensation awarded to them by the Motor Accident Claims Tribunal, Narnaul (for short- the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 03.04.2013 Sandeep and Rajesh was going on a motorcycle from Narnaul to village Jatgawra. Rajesh, was driving the motorcycle and Sandeep was riding in pillion. When they crossed Yaduvanshi School near Sube Nagar, Narnaul, a Tractor bearing registration No.RJ-18-RA-9133 (for short – the offending vehicle) hit them as a result of which they fell down. Sandeep died on the spot whereas Rajesh sustained serious injuries. On account of Sandeep's death having been caused due to rash and negligent driving of the offending vehicle, the claimants filed a petition before the Tribunal under Section 166 of the

Motor Vehicles Act, 1988, seeking therein compensation.

After sifting the evidence which had come on record, the Tribunal after concluding that the accident had been caused due to the rash and negligent driving of the offending vehicle assessed the payable compensation the enhancement of which is sought through the present appeal.

Learned counsel for the appellants submitted that the Tribunal wrongly assessed the income of the deceased as there was overwhelming evidence on record to show that the income of the deceased was much higher than the assessed income. It was further submitted that as per the recent pronouncement by the Hon'ble Apex Court in **National Insurance Company Limited vs. Pranay Sethi and others** – **(2017) 16 SCC 680**, the Tribunal ought to have granted future prospects @ 40% to the assessed income of the deceased as also an amount of Rs.70,000/- under the conventional heads in stead of Rs.25,000/- as has been granted.

Learned counsel for the respondent-Insurance Company submitted that no evidence was led by the appellants with regard to the income of the deceased and therefore, the income assessed by the Tribunal @ Rs.4800/- per month was more than adequate. With regard to grant of future prospects @ 40% to the assessed income of the deceased as also Rs.70,000/- under the conventional heads, learned counsel for the respondent-Insurance Company does not raise a serious dispute.

No evidence is found on the record with regard to the income of the deceased being higher than Rs.4,800/- as has been assessed by the Tribunal and therefore, the plea raised by learned counsel for the appellants seeking enhancement in the assessed income deserves outright rejection. So far as grant of future prospects @ 40% on the assessed income of the deceased and Rs.70,000/- under the conventional heads in stead of Rs.25,000/- is concerned, the same are found to be payable to the appellants in view **Pranay Sethi's case (supra)**.

Accordingly, the appeal is disposed of and the impugned award is modified to the extent that the appellants are held entitled to the grant of future prospects to the assessed income of the deceased @ 40% and the compensation awarded under the conventional heads is enhanced from Rs.25,000/- to Rs.70,000/-.

The appellants are also held entitled to interest @ 6.5% per annum from the date of filing of the claim petition by them before the Tribunal till the date of its realization.

No costs.

(DEEPAK SIBAL)
JUDGE

January 25, 2019
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No