

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

**FAO No. 7182 of 2015
DECIDED ON: JANUARY 24, 2019**

SHASHI DEVI AND ANOTHER

.....APPELLANTS

VERSUS

M/S ORIENTAL INSURANCE COMPANY LTD.

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Mr. Satpal Dhamija, Advocate
for the respondent-Insurance Company.

AVNEESH JHINGAN J. (ORAL)

The legal heirs of Poshat Kaushal (deceased) are in appeal against the award dated 18.08.2015 passed by the Motor Accident Claims Tribunal, Chandigarh (for brevity 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The insurer (i.e. M/s Oriental Insurance Co. Ltd.) of motorcycle bearing registration No. PB-65-X-3159 (hereinafter referred to as the 'offending vehicle') has been arrayed as respondent in the appeal.

The facts emanating from the record are that on 25.12.2014, Poshat Kaushal was a pillion rider of the offending vehicle. The offending vehicle was driven by Akshay Kohli in a rash and negligent manner. On the way, the driver of the offending vehicle lost his control and struck against the round about. As a result of the impact both the riders of the offending vehicle fell down and suffered grievous injuries. They were taken to General Hospital, Sector 16, Chandigarh where, they succumbed to the injuries. DDR was also recorded.

A claim petition under Section 166 of the Act was filed. The Tribunal held that the accident was caused due to rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation. The Tribunal awarded compensation of ₹13,15,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹25,000/- for funeral expenses, ₹1,00,000/- each for loss of estate and loss of love and affection.

In the claim petition, it was pleaded that the deceased was 22 years old at the time of accident and was pursuing MBA from Chandigarh University. He had a degree from Punjab Technical University, Jalandhar. The Tribunal assessed the monthly income of the deceased as ₹10,000/- per month. 1/2 deduction for self-expenses was made and multiplier of 18 was applied.

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellants contends that no future prospects have been awarded. No other issue has been raised.

Learned counsel for the insurer defends the award and resisted any further enhancement. He argues that no amount should be awarded for loss of love and affection. His grievance is that the amounts awarded under the

conventional heads are on the higher side and it should be in consonance with the decision of Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009.**

There is no dispute between the parties regarding loss of dependency calculated by the Tribunal as ₹10,90,000/-. As the deceased was 22 years old at the time of accident, 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;** 40% future prospects are awarded. 40% of ₹10,90,000/- i.e. ₹4,36,000/-.

As the quantum of compensation is being revisited, the amounts under the conventional heads are awarded in consonance with the decision of Supreme Court in **Pranay Sethi's** case (supra). Claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate. No amount is to be awarded for loss of love and affection. Thus, the amounts awarded by the Tribunal under the conventional heads i.e. ₹2,25,000/- is reduced to ₹30,000/-.

The award dated 18.08.2015 is modified to the extent that amount of ₹13,15,000/- awarded by the Tribunal is enhanced by ₹2,41,000/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is partly allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

JANUARY 24, 2019

sham

Whether speaking/reasoned:

Yes / No

Whether reportable :

Yes / No