

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

**FAO No. 6294 of 2016
DECIDED ON: APRIL 09, 2019**

NEELAM DEVI AND ANOTHER

APPELLANTS

VERSUS

PAWAN AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sudhir Hooda, Advocate
for the appellants.

Mr. Radhe Shyam Sharma, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 06.10.2015 passed by the Motor Accident Claims Tribunal, Rohtak (for brevity 'the Tribunal') has been assailed by the parents of Ashish (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, owner and insurer (i.e. The Oriental Insurance Company Ltd.) of bus bearing registration No. HR-55-R-2934 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum of accident has not been disputed by the parties. A motor vehicular accident took place on 05.11.2014 and the same proved fatal for Ashish, 20 years of age. The accident was caused due to the rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay compensation. FIR was registered.

In the claim proceedings, it was claimed that the deceased was a student of Industrial Training Institute (ITI), Meham. The Tribunal assessed the monthly income of the deceased as ₹6000/- per month; ½ deduction for self-expenses was made and multiplier of '14' was applied considering the age of the claimants. The Tribunal awarded a sum of ₹6,29,000/- alongwith @7.5% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹1,00,000/- for loss of love and affection.

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

Learned counsel for the appellants contends that no future prospects have been awarded. Per contra, learned counsel for the insurer defends the award and argues that the amounts awarded under the conventional heads are on the higher side. No amount be awarded for loss of love and affection.

Considering 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 the deceased was below 40 years old at

the time of accident and fell in the category of self-employed or a person having established income. As there is no dispute between the parties with regard to loss of dependency i.e. ₹5,04,000/- calculated by the Tribunal. 40% of the said amount i.e. ₹2,01,600/- is awarded as future prospects.

As the quantum of compensation is being revisited, it would be appropriate that amounts under the conventional heads are awarded as per 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. No amount is awarded for loss of love and affection.

The net effect is that the amounts awarded under the conventional heads are reduced by ₹95,000/-.

The award dated 06.10.2015 is modified to the extent that amount of ₹6,29,000/- awarded by the Tribunal is enhanced by ₹1,06,600/-.

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.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

APRIL 09, 2019
sham

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