

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 7342 of 2015

Date of Decision: 29.03.2019

Smt. Manjeeta Devi and others

.....Appellants

Versus

Karambir and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vishal Nehra, Advocate
for the appellants.

Mr. Pradeep Kumar, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 16.7.2015 passed by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal') by the legal heirs of deceased-Jitender seeking enhancement of compensation.

Appellants are widow, two minor children and mother of deceased-Jitender.

The facts with regard to the accident are not in dispute between the parties.

Jitender aged 39 years lost his life in a motor vehicular accident that took place on 17.6.2014. The accident was result of rash and negligent driving of the truck bearing registration No.HR-47-B-9986. FIR No. 238 dated 17.6.2014 was registered at Police Station Sadar, Bahadurgarh.

In the claim petition it was pleaded that the deceased was

working as supervisor/engineer in M/s PEE ESS Construction Company, New Anaz Mandi, Rohtak and his salary was claimed as ₹ 21,000/- per month. A clerk of the said company deposed as PW2. The testimony of PW2 was not found worth reliance as he had not brought any salary certificate, salary register or documentary evidence to support the claim that the deceased was getting a salary of ₹ 21,000/- per month.

The Tribunal assessed the earning as ₹ 12,000/- per month; 1/4th deduction for self-expenses was made as deceased was survived by four dependants and multiplier of 15 was applied. A total sum of ₹ 17,45,000/- alongwith interest at the rate of 7.5.% was awarded. The amount awarded included ₹ 1,00,000/- for loss of consortium and ₹ 25,000/- for funeral expenses.

The Tribunal considering the facts and appreciating the evidence adduced held that the liability to pay compensation is joint and several of respondents No. 1 to 3 arrayed before the Tribunal.

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

There is no challenge to the loss of dependency.

The only issue raised by learned counsel for the appellants is that no future prospects have been awarded. Per contra learned counsel for the insurer contends that the amounts under conventional heads be awarded as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others (2017) AIR (SC) 5157.**

The deceased was below 40 years of age and would fall in the category of person having fixed wages or self employed. In consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra)** and

future prospects are awarded.

As there is no challenge to the loss of dependency, 40% of ₹ 16,20,000/- is awarded as future prospects i.e. ₹ 6,48,000/-.

As the quantum of compensation is being revisited, the conventional heads are awarded as per the decision of the Supreme Court in **Pranay Sethi's case (supra)**.

Thus, the claimants are entitled to ₹15,000/- each for loss of estate and for funeral expenses and ₹ 40,000/- for loss of consortium to the widow.

The net result is that the amount awarded by the Tribunal of ₹ 17,45,000/- is enhanced by ₹ 5,93,000/-.

The claimants shall be entitled to the enhanced amount alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is partly allowed.

(AVNEESH JHINGAN)
JUDGE

29.03.2019

reema

Whether speaking/reasoned	Yes
Whether Reportable:	No