

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

Sr. No.255

FAO No.6985 of 2016
Date of decision: 08.02.2019

Sarabjit Kaur and others

....Appellants

versus

Sanjeev Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vivek Suri, Advocate for
for the appellants.

Mr. R.K. Bashamboo, 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 by the Motor Accident Claims Tribunal, Fatehgarh Sahib (for short – the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 01.04.2013 Paramjit Singh was going on his scooter bearing registration No.PB-23-N-0380 while his brother Malkiat Singh followed him on his motorcycle. At about 9.50 P.M., when Paramjit Singh crossed village Majatri, a TATA Indigo car bearing registration No.HR-41-C-7503 (for short – the offending vehicle) struck against his scooter resulting in grievous injuries to him to which he succumbed on the spot.

The appellants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 as also lodged FIR No.41 dated 02.04.2013 at Police Station, Kharar, against the driver of the offending vehicle on account of rash and negligent driving on his part.

After sifting the evidence led by the parties, the Tribunal concluded that the accident in question had been caused due to the rash and negligent driving of the offending vehicle. Thereafter, it assessed the compensation to be paid to the appellants by the respondent-Insurance Company, the enhancement in which is sought through the present appeal.

Learned counsel for the appellants submits that since the deceased at the time of his death was 39 years of age the only ground on which enhancement is sought through the present appeal is with regard to awarding of future prospects @ 40% to his assessed income instead of 30% as granted by the Tribunal.

Learned counsel for the respondent-Insurance Company very fairly admits the above claim.

In view of the concensus between the parties as also the law laid down by the judgment of the Constitution Bench of the Hon'ble Apex Court in **National Insurance Company Limited vs. Pranay Sethi and others – (2017) 16 SCC 680**, the impugned award is modified only to the extent that the appellants/claimants are held entitled to future prospects @ 40% instead of 30% on the assessed income of the deceased.

The appellants are also held entitled to interest at the rate of 6.5% per annum on the enhanced amount of compensation from the date of filing of the claim petition by them before the Tribunal till the date of its realization.

The enhanced compensation alongwith interest be apportioned in terms of the apportionment in the award.

The appeal is allowed in the above terms.

February 08, 2019
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(DEEPAK SIBAL)
JUDGE

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