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

FAO-817-2015 (O&M)
Date of decision:-13.05.2019

Nasima and another

....Appellants

Versus

Yasin and others

....Respondents

CORAM: HON'BLE Mr. JUSTICE AVNEESH JHINGAN

Present:- Mr. Bhavdeep Mamli, Advocate for
Mr. R.S.Mamli, Advocate
for the appellants.

Mr. Rajnish Malhotra, Advocate
for respondent-Insurance Company.

AVNEESH JHINGAN J. (Oral)

The award dated 31.10.2014 passed in MACT Case No. 20 of 2012 by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (for short 'the Tribunal') has been assailed by the legal representative of Naseem seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The widow, minor daughter and parents of Naseem filed the claim petition and the driver of the Truck bearing registration No. HR-58A-0286 (hereinafter referred to as the 'offending vehicle'), owner and insurer (i.e. Reliance General Insurance Company Ltd.) were respondents before the Tribunal.

Only two grievances have been raised in the present appeal firstly, no future prospects have been awarded and secondly, amount under conventional heads has not been awarded as per the decision of the Hon'ble

Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.***

The facts emanating from the record are that on 21.03.2012, a motor vehicle accident took place and the same proved fatal for Naseem aged 30 years. The accident occurred due to rash and negligent driving of the offending vehicle. FIR No. 32 dated 21.03.2012 was registered at Police Station Chhachhrauli, District Yamuna Nagar. The owner, driver and the insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim petition, the claimants failed to substantiate the earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹ 4800/- per month, 1/4th deduction was made for self-expenses as he was survived by four dependants and multiplier of '17' was applied as per the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21*** and the Tribunal awarded a sum of ₹ 7,54,200/- along with interest @ 7.5% per annum. The amount awarded included ₹10,000/- each for loss of love and affection and funeral expenses.

Learned counsel for the appellants contends that no future prospects have been awarded. His grievance is that the amounts awarded under conventional heads are on lower side. No other issue has been raised.

Learned counsel for the Insurer vehemently defended the award and resisted further enhancement.

Having due regard to 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**, as the deceased was below 40 years of age at the time of accident and fell in the category of self-employed or person having fixed wages, 40% future prospects are awarded. As there is no challenge to the loss of dependency calculated by the Tribunal of ₹ 7,34,400/-. 40% of the said amount is awarded for future prospects i.e. ₹ 2, 93,760/-.

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

The amount awarded by the Tribunal of ₹ 7,54,400/- is enhanced by ₹3,43,760/-. The claimants shall be entitled to the enhanced amount alongwith interest at the rate as awarded by the Tribunal from the date of filing of the claim petition till the realization of the amount.

Disposed of accordingly.

13th May, 2019
shabha

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>