IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 8343 of 2015
Date of decision: 29.1.2019

Sheela Devi and others

.. Appellants

v.

Nabo Narayan Jha and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gobind Rana, Advocate for
Mr. Harkesh Manuja, Advocate for the appellants.

Mr. D. K. Prajapati, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The wife, four children and mother of Wazir Singh (deceased) are in appeal against the award dated 30.5.2015 passed by the Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') seeking enhancement of compensation of ₹8,27,000/- awarded along with interest @ 7.5% per annum under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The respondents in the appeal are the driver of Alto Car bearing registration No. HR-10U-1857 (hereinafter referred to as 'the offending vehicle'), owner and the insurer (i.e. Royal Sundaram Alliance Insurance Company Limited) of the offending vehicle.

The brief facts necessary for adjudication of the present appeal are that on 1.1.2015, Wazir Singh along with his relative-Manoj Kumar was going in an auto rickshaw. The same was being driven by Wazir Singh. On their way, the auto rickshaw was hit by a rashly and negligently driven offending vehicle. As a result of the impact, the auto rickshaw turned turtle.

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Wazir Singh sustained grievous injuries. He was taken to Param Nursing Home, Kundli for treatment, from where he was referred to General Hospital, Sonipat, where he was declared dead. FIR No. 1 dated 1.1.2015 was registered at Police Station Kundli.

A claim petition under Section 166 of the Act was filed pleading that the deceased was an auto driver and was selling milk. He used to earn ₹30,000/- per month. But the claimants failed to prove the occupation and the earning of the deceased. The Tribunal assessed the monthly earning as ₹6,000/- treating him to be a manual labourer, 1/4th deduction for self- expenses was made and multipllier of 13 was applied. The Tribunal awarded a sum of ₹8,27,000/- along with interest @ 7.5% per annum. The amount awarded included ₹1,00,000/- for loss of consortium and ₹25,000/- for funeral expenses.

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

There is no dispute between the parties on the loss of dependency calculated by the Tribunal as ₹7,02,000/-.

Learned counsel for the appellants contends that no future prospects have been awarded and no amount has been awarded for loss of estate.

Learned counsel for the insurer argues that the amounts awarded under the conventional heads are on the higher side.

Having due regard to the decisions of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157** and **Hem Raj v. Oriental Insurance Compasny Ltd., 2018 (2) PLR 480** and considering the age of the deceased as 49 years at the time

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of accident, 25% future prospects are awarded. As the loss of dependency i.e. ₹7,02,000/- calculated by the Tribunal has not been disputed, 25% of the said amount i.e. ₹1,75,500/- is awarded as future prospects.

As the quantum of compensation is being re-visited, the amounts awarded under the conventional heads are made in consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra).** The claimants are awarded ₹15,000/- each for funeral expenses and loss of estate and ₹40,000/- for loss of consortium to the widow. The amount awarded under the conventional heads is reduced to ₹70,000/-.

The net effect is that the award dated 30.5.2015 is modified to the extent that the amount awarded by the Tribunal to the tune of ₹8,27,000/- is enhanced to ₹9,47,500/. The claimants shall be entitled to the enhanced amount along with interest @ 7.5% per annum from the date of filing of the claim petition till realization of amount.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

29.1.2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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