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

**FAO No. 8490 of 2015 (O&M)**

**Date of Decision: 09.05.2019**

Smt. Memwati and others

.......Appellants

**Versus**

Sanjay Kumar and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Ms. Vandana Malhotra, Advocate
for the insurance company.

**AVNEESH JHINGAN, J.(oral)**

The award dated 9.9.2015 passed by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'the Tribunal') has been assailed by the claimants seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

Appellants are widow, three minor children and parents of deceased-Satish.

Driver of Scorpio bearing registration No.HR-30-K-2004 (for short 'the offending vehicle'), owner and insurer (i.e. ICICI Lombard General Insurance Company Limited), have been arrayed as respondents No. 1 to 3 respectively in the appeal.

Two issues involved in the present appeal are that no future prospects were awarded and the amount under the conventional heads were not awarded as per the decision of the Supreme Court in ***National Insurance***

***Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157***.

The factum of accident has not been disputed by the parties.

A motor vehicular accident took place on 29.11.2014. The accident proved fatal for Satish aged 32 years. FIR No. 636 of 29.11.2014 was registered. The accident was result of rash and negligent driving of the offending vehicle. The owner, driver and insurer were held jointly and severally liable to pay compensation.

During the claim proceedings, it was proved that the deceased was earning ₹ 5547/-per month, 1/4th deduction for self-expenses was made as he was survived by five dependants and multiplier of 16 was applied in consonance with the decision of the Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 21***. A sum of ₹ 8,63,768/- along with interest at the rate of 7.5% per annum was awarded. The amount awarded included ₹ 50,000/- for loss of consortium, ₹ 10,000/- for funeral expenses and ₹ 5000/- for loss of estate.

Learned counsel for the appellants argues that no future prospects have been awarded and the amounts awarded for funeral expenses and loss of estate are on lower side.

Learned counsel for the insurer defends the award and resisted any further enhancement.

The contentions raised by learned counsel for the appellants deserve acceptance. The deceased was below 40 years and was having fixed salary and in consonance with the decisions of the Supreme Court in **Pranay Sethi's case (supra)** and ***Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480***, 40% future prospects are awarded. As there is no challenge to the loss of dependency as calculated by the Tribunal of ₹7,98,768/-, 40% of the said amount is awarded as future prospects i.e.

₹3,19,507/-.

As the quantum of compensation is being revisited, the amount under the conventional heads are awarded as per the decision of the Supreme Court in **Pranay Sethi's case (supra)** i.e. ₹ 15,000/- each for loss of estate and funeral expenses and ₹ 40,000/- for loss of consortium to the widow i.e. amount under conventional heads is enhanced by ₹ 5000/-

The net result is that the amount awarded by the Tribunal is enhanced by ₹ 3,24,507/-. The appellants are entitled to enhanced amount alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

**(AVNEESH JHINGAN)**
**JUDGE**

**09.05.2019**
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Whether speaking/reasoned Yes
Whether Reportable: No