

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

**FAO No. 8038 of 2016
DECIDED ON: APRIL 01, 2019**

ANITA AND OTHERS

APPELLANTS

VERSUS

SURESH KUMAR AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Deepak Girotra, Advocate
for the appellants.

Mr. Sanjdev Kodan, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (ORAL):

The award dated 08.04.2016 passed by the Motor Accident Claims Tribunal, Sonipat (for brevity 'the Tribunal') has been assailed by the legal heirs of Anil Kumar (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

Appellants are widow and two minor children of the deceased. The driver, owner and insurer (i.e. Reliance General Insurance Company Ltd.) of car bearing registration No. DL-3CAD-5508 (hereinafter referred to as 'the offending vehicle'), have been arrayed as respondents No. 1 to 3 respectively in the appeal and mother of the deceased has been arrayed as proforma respondent No.4.

The facts are not disputed by the parties. A motor vehicular accident took place on 12.05.2015, same proved fatal for Anil Kumar aged 41 years. The said accident was caused due to rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim petition it was pleaded that the deceased was 41 years old and was working with Nain and Associates, Architects, Delhi Road, Sonipat and was earning ₹14,500/- per month. It was also pleaded that the deceased was earning ₹10,000/- per month by doing private work. The claimants failed to prove the occupation and monthly earning of the deceased. The Tribunal assessed the monthly income of the deceased as ₹8000/- per month; ¼ deduction for self-expenses was made, as the deceased was survived by four dependants and multiplier of '14' was applied, as the deceased was 41 years old. The Tribunal awarded a sum of ₹17,51,000/- alongwith interest @7.5% per annum. The amount awarded included ₹1,00,000/- for loss of consortium, ₹25,000/- for funeral expenses and ₹6,18,000/- for medical expenses.

Learned counsel for the appellants contends that no future prospects have been awarded. Per contra, learned counsel for the insurer defends the award and resisted any further enhancement. He further submits that the amount under the conventional heads be awarded in consonance with the decision of the Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi and others;** 2017 (4) RCR (Civil) 1009.

Having due regard to the decisions of the Supreme Court in **Pranay Sethi's** case (supra) and **Hem Raj vs. Oriental Insurance**

Company Ltd. 2018 (2) PLR 480; 25% future prospects are awarded, as the deceased was below 41 years of age and was self employed having fixed wages.

As there is no challenge to the loss of dependancy calculated of ₹10,08,000/- and 25% of ₹10,08,000/- i.e. ₹2,52,000/- is awarded for future prospects.

As the quantum of compensation is being revisited, it would be appropriate that the amounts under the conventional heads are awarded in consonance with the decision of the Supreme Court in *Pranay Sethi's* case (supra). The claimants are entitled to ₹15000/- each for funeral expenses and for loss of estate. Further an amount of ₹40,000/- is awarded to the widow for loss of consortium. The amount under the conventional heads is reduced by ₹55,000/-

The award dated 08.04.2016 is modified to the extent that amount of ₹17,51,000/- awarded by the Tribunal is enhanced by ₹1,97,000/-. The appellants shall be entitled to the enhanced amount alongwith interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

The appeal is allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

APRIL 01, 2019
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>