

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

**FAO No. 2318 of 2017
DECIDED ON: JANUARY 16, 2019**

SUMAN & OTHERS

.....APPELLANTS

VERSUS

PAWAN AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Manjeet Kaur, Advocate for
Mr. Pankaj Mehta, Advocate
for the appellants.

AVNEESH JHINGAN J. (ORAL)

The legal heirs of Jai Singh (deceased) are in appeal against the award dated 06.12.2016 passed by the Motor Accident Claims Tribunal, Hisar (for brevity 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

The driver-cum-owner of car bearing registration No. HR-99-UT-4358 (Temp.) (hereinafter referred to as 'offending vehicle') and insurer (i.e. United India Insurance Co. Ltd.) of the offending vehicle have been arrayed as respondents no. 1 and 2 respectively in the appeal.

Notice of motion was issued qua respondent No.2 only.

Mr. Pardeep Goyal, Advocate who is present in Court accepts notice on behalf of respondent No.2-Insurance Company.

With the consent of both the parties the appeal is taken up for hearing today, itself.

The facts emanating from the record are that on 25.01.2015, Jai Singh was riding his motorcycle bearing registration No. HR-51-T-4027 and he was followed by his cousin Baljeet Singh on bicycle. When they reached near Malik Hospital, Hansi, the motorcycle of Jai Singh was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Jai Singh fell down and sustained grievous injuries. He died at the spot. FIR No. 76, dated 26.01.2015 was registered at Police Station, City Hansi.

A claim petition under Section 166 of the Act was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The driver-cum-owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal awarded compensation of ₹13,30,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹2,25,000/- for loss of consortium, for loss of love and affection and for transportation and funeral expenses.

In the claim petition, it was pleaded that the age of the deceased at the time of accident was 35 years and he was working as a Halwai. But, the claimants failed to prove the occupation and earning of the deceased. Thus, the Tribunal assessed the monthly income of the deceased as ₹7500/- per month.

1/4th deduction for self-expenses was made and multiplier of 16 was applied.

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

Learned counsel for the appellants contends that no future prospects have been awarded. No other issue has been raised.

Learned counsel for the insurer defends the award and resisted any further enhancement. He argues that no amount should be awarded for loss of love and affection. His grievance is that the amount awarded under the conventional heads are on the higher side and it should be in consonance with the decision of Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi and others; 2017 (4) RCR (Civil) 1009.**

There is no dispute between the parties regarding loss of dependency calculated by the Tribunal as ₹10,80,000/-.

As, the deceased was 35 years old at the time of accident, 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;** 40% future prospects are awarded. 40% of ₹10,80,000/- is ₹4,32,000/-.

As the quantum of compensation is being revisited, the amounts under the conventional heads are awarded in consonance with the decision of Supreme Court in **Pranay Sethi's** case (supra). Claimants are also entitled to ₹15000/- each for funeral expenses and for loss of estate. The widow of the deceased is entitled to ₹40,000/- for loss of consortium. No amount is to be awarded for loss of love and affection.

The amounts awarded by the Tribunal under the conventional heads i.e. ₹2,25,000/- is reduced to ₹70,000/-.

The award dated 06.02.2016 is modified to the extent that amount of ₹13,30,000/- awarded by the Tribunal is enhanced by ₹2,77,000/-. 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 partly allowed in the afore-said terms.

(AVNEESH JHINGAN)
JUDGE

JANUARY 16, 2019
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Whether speaking/reasoned:
Whether reportable :

Yes / No
Yes / No