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

**FAO No.1198 of 2018
Date of Decision: 13.03.2019**

Harender and others

Appellants

Versus

Bijender and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajender Kumar, Advocate for
Mr. M.S. Tewatia, Advocate
for the appellants.

Mr. Lalit Kumar, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 04.12.2017 passed by the Motor Accident Claims Tribunal, Palwal [for brevity 'the Tribunal'] has been assailed by three sons of Amarwati (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, owner and insurer (i.e. Kotak General Insurance Company Ltd.) of Tractor bearing registration No. HR-30Q-9001 [hereinafter referred to as 'offending vehicle'] are respondents No.1 to 3 respectively in the appeal.

Brief facts of the case are that on 26.12.2016, Amarwati

@ Amro alongwith her sons Harender and Rohtash was going to their plot on foot. On their way, she was hit by a rashly and negligently driven offending vehicle. She was taken to Guru Nanak Hospital, Palwal from where she was referred to Metro Hospital, Faridabad, she succumbed to the injuries at the gate of Guru Nanak Hospital, Palwal. FIR No.397, dated 26.12.2016 was registered at Police Station Chandhat.

A claim petition under Section 166 of Act was filed. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was directed to pay the amount of compensation and was given right to recover the same from the owner and driver of the offending vehicle.

In the claim petition, it was pleaded that the deceased was 45 years old at the time of accident and she was doing agricultural work and selling milk. Her earning was claimed to be ₹30,000/- per month. The claimants failed to prove the occupation and monthly earning of the deceased. The Tribunal taking a clue from minimum wages, assessed monthly earning of the deceased as ₹8,100/- per month; 25% future prospects were awarded; 1/3rd deduction for self-expenses was made and multiplier of '14' was applied. The Tribunal awarded a sum of ₹13,05,792/- alongwith interest @ 7.5% per annum. The amount awarded included ₹15,000/- towards transportation and funeral expenses and

₹15,000/- for loss of estate.

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

Learned counsel for the appellants contends that no amount has been awarded for funeral expenses exclusively. No other issue has been raised.

Learned counsel for the insurer relies upon the decision of the Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157 and stated that ₹15,000/- is to be awarded for funeral expenses. There is no proof of actual payment of any transportation, hence, ₹15,000/- awarded has been rightly awarded by the Tribunal for transportation and funeral expenses.

The contention raised by learned counsel for the appellants lacks merit. From the perusal of the award, it is evident that ₹15,000/- has rightly been awarded for transportation and funeral expenses in consonance with the decision of the Supreme Court in Pranay Sethi's case (supra).

No interference is called for in the quantum of compensation awarded by the Tribunal.

The appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

March 13, 2019
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |