

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4256 of 2017
Date of decision:13.2.2019

Baljinder Kaur and others

.. Appellants

v.

Shyam Lal and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Suri, Advocate for the appellants.
Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The wife and four children (two major and two minor) of Nasib Singh (deceased) are in appeal against the award dated 4.3.2017 passed by the Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The respondents in the appeal are the driver of Mahindra Pick Up bearing registration No. HR-37-D-5930 (hereinafter referred to as 'the offending vehicle'), owner and the insurer (i.e. Tata AIG General Insurance Company) of the offending vehicle.

Brief facts of the case are that a motor vehicular accident took place on 23.5.2016. The accident was caused due to the rash and negligent driving of the offending vehicle. The accident proved fatal for Nasib Singh

aged 45 years. FIR No. 79 dated 25.5.2016 was registered at Police Station Shambu.

A claim petition was filed under Section 166 of the Act. The Tribunal calculated the loss of dependency as ₹9,45,000/-, considering the fact that the deceased was 45 years old, his monthly income was assessed as ₹7500/-, 1/4th deduction for self-expenses was made and multiplier of '14' was applied. The Tribunal awarded a sum of ₹11,05,000/- along with interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of love and affection, ₹50,000/- for loss of consortium and ₹10,000/- for funeral expenses.

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

Learned counsel for the appellants contends that no future prospects have been awarded.

Learned counsel for the insurer contends that the amounts awarded under the conventional heads are on the higher side and no amount be awarded for loss of love and affection.

The issues involved in the present appeal are duly covered by the decision of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, AIR 2017 SC 5157.

Having due regard to the decisions of the Supreme Court in **Pranay Sethi's** case (supra) and **Hem Raj v. Oriental Insurance Company Ltd.**, 2018(2) PLR 480 , 25% future prospects are awarded as the deceased as 45 years old at the time of accident and falls in the category of self employed or having fixed wages. As the loss of dependency of ₹9,45,000/- has not been disputed, 25% of the said amount is i.e.

₹2,36,250/- 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 of ₹1,60,000/- awarded by the Tribunal under various heads is reduced to ₹70,000/-.

The net effect is that the award dated 4.3.2017 is modified to the extent that the amount awarded by the Tribunal to the tune of ₹11,05,000/- is enhanced to ₹12,51,250/- The claimants are entitled to enhanced amount along with interest as awarded by the Tribunal.

The appeal is allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

13.2.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No