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

**FAO No.3907 of 2018 (O&M)
Date of Decision : 06.05.2019**

Neelam

Appellant

Versus

Dashrath Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sankalp, Advocate for
Mr. Saurabh Dalal, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral)

The award dated 17.08.2017 passed by the Motor Accident Claims Tribunal, Jhajjar [for brevity 'the Tribunal'] has been assailed by the mother of Manish, aged 24 years (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The owner, driver and insurer (i.e. United India Insurance Company Ltd.) of Tata-407 bearing registration

No.PB-65K-6906 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum of the accident is not disputed by the parties. A motor vehicular accident took place on 03.02.2016. The accident was result of rash and negligent driving of the offending vehicle. The accident proved fatal for Manish. FIR was registered at Police Station Sadar, Bahadurgarh. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, it was claimed that the deceased was student of 2nd year of General Nursing and Midwifery. It was claimed that he was earning ₹15,000/- per month by doing work as a part time assistant in a private hospital. The claimants failed to prove monthly earning of the deceased, the Tribunal assessed monthly earning of the deceased as ₹10,000/-, made ½ deduction for self-expenses as the deceased as bachelor and applied multiplier of '18' as the deceased was 24 years old at the time of accident. The Tribunal awarded compensation of ₹11,55,000/- alongwith interest @ 7% per annum. The amount awarded included ₹50,000/- for loss of love and affection and ₹25,000/- for funeral expenses.

The only two issues involved in the present appeal are that (i) no future prospects have been awarded; and

(ii) amounts be awarded under the conventional heads as per decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.**

Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

Learned counsel for the appellants contends that no future prospects have been awarded and no amount has been awarded for loss of estate.

Learned counsel for the insurer argues that amount awarded for funeral expenses is on the higher side and no amount be awarded for loss of love and affection.

There is no challenge by the parties to the loss of dependency i.e. ₹10,80,000/- calculated by the Tribunal. 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% of the said amount i.e. ₹4,32,000/- is awarded towards future prospects as the deceased was below 40 years of age and fell in the category of self-employed or having fixed wages.

As the quantum of compensation is being revisited, it would be appropriate that compensation under the conventional heads be awarded as per decision of the Supreme Court in **Pranay Sethi's case** (supra). The claimant are entitled to ₹15,000/- each for funeral expenses and for loss of estate.

No amount is awarded for loss of love and affection.

The net effect is that amount of ₹75,000/- awarded under the conventional heads is reduced to ₹30,000/-.

The award dated 17.08.2017 is modified to the extent that amount of ₹11,55,000/- awarded by the Tribunal is enhanced by ₹3,87,000/-.

The claimants shall be entitled to the enhanced amount alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

May 06, 2019

pankaj baweja

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