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

**FAO No.6688 of 2017
Date of Decision : 30.04.2019**

Raj Kaur and others

Appellants

Versus

Naresh Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Rajesh K. Sharma, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral)

The award dated 15.05.2017 passed by the Motor Accident Claims Tribunal, Patiala [for brevity 'the Tribunal'] has been assailed by widow and three children of Sukhwinder Singh (deceased), seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The factum of the accident is not disputed by the parties. A motor vehicular accident took place on 02.05.2016, the same proved fatal for Sukhwinder Singh. The accident was the result of rash and negligent driving of Truck bearing registration No. HR-37D-5739 [hereinafter referred to as 'offending vehicle']. The driver, owner and insurer of the offending vehicle were held jointly and

severally liable to pay the compensation. FIR No.34, dated 02.05.2016 was registered at Police Station Kheri Gandian.

The issues involved in the present appeal is that no future prospects have been awarded and the amounts awarded under the conventional heads are on the higher side.

In the claim proceedings, the claimants failed to prove occupation and monthly earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹7,500/-; 1/4th deduction for self-expenses was made as the deceased was survived by four dependents and multiplier of '14' was applied as the deceased was in the age group of 41-45 years. The Tribunal awarded compensation of ₹10,70,000/- alongwith interest @ 7% per annum. The amount awarded included ₹1,00,000/- for loss of consortium and ₹25,000/- for funeral expenses.

Heard learned counsel for the parties, perused the paper book and relevant documents placed on record.

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

Learned counsel for the insurer argues that amounts be awarded under the conventional heads as per the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.**

The deceased was in the age group of 41-45 years and fell in category of self-employed or a person having fixed wages, in consonance with the decision 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 there is no dispute with regard to loss of dependency i.e. ₹9,45,000/- calculated by the Tribunal, 25% of the said amount i.e. ₹2,36,250/- is awarded for future prospects.

Since the quantum of compensation is being revisited, it would be appropriate that the amounts awarded under the conventional heads are awarded as per decision of the Supreme Court in Pranay Sethi's case (supra). The claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- are awarded to the widow for loss of consortium. The amount of ₹1,25,000/- awarded by the Tribunal under the conventional heads is reduced by ₹55,000/-.

The net effect is that the award dated 15.05.2017 is modified to the extent that amount of ₹10,70,000/- awarded by the Tribunal is enhanced by ₹1,81,250/-.

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

The appeal is partly allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

April 30, 2019
pankaj baweja

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