

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

**FAO No.6853 of 2017
Date of Decision: 07.03.2019**

Meena and others

Appellants

Versus

Umesh Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Yashveer Kharb, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.4-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 30.05.2017 passed by the Motor Accident Claims Tribunal, Panipat [for brevity 'the Tribunal'] has been assailed by the legal heirs of Avadh Kumar seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The driver, two owners and insurer (i.e. The New India Assurance Company Ltd.) of Tractor bearing registration No. HR-13E-8890 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 4 respectively in the appeal.

Brief facts of the case are that a motor vehicular accident took place on 27.09.2014 which proved fatal for Avadh

Kumar, aged 55 years. The accident was caused due to the rash and negligent driving of the offending vehicle. FIR No. 787, dated 28.09.2014 was registered at Police Station Model Town, Panipat.

A claim petition was filed under Section 166 of the Act. The Tribunal assessed monthly income of the deceased as ₹5,600/- treating him to be an unskilled labourer, as the claimants failed to prove the occupation and monthly earning of the deceased; 1/4th deduction for self-expenses was made and multiplier of '11' was applied. The Tribunal awarded compensation of ₹5,99,400/- alongwith interest @ 7.5% per annum. The amount awarded included ₹10,000/- for loss of consortium; ₹10,000/- for loss of estate and ₹25,000/- towards funeral expenses. The owners, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

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

Two issues raised in the present appeal are that no future prospects have been awarded and the amounts awarded under the conventional heads be made as per decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157**

As the deceased was in the age group of 50-60 years at the time of accident and would fall in the category of self-employed or a person having fixed wages, 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. 10% future prospects are awarded. Since there is no dispute with regard to loss of dependency i.e. ₹5,54,400/- calculated by the Tribunal, 10% of the said amount i.e. ₹55,440/ are awarded for future prospects.

The claimants shall also be 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 net result is that the award dated 30.05.2017 is modified to the extent that the amount of ₹5,99,400/- is enhanced by ₹80,440/-.

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 allowed.

[AVNEESH JHINGAN]
JUDGE

March 07, 2019

pankaj baweja

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