

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

**FAO No.4284 of 2018 (O&M)
Date of Decision: 25.02.2019**

Surjeet Kaur and others

Appellants

Versus

Ved Pal and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rohit Rana, Advocate
for the appellants.

Ms. Vandanaa Malhotra, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 18.09.2017 passed by the Motor Accident Claims Tribunal, Faridabad [for brevity 'the Tribunal'] has been assailed in appeal by the legal heirs of Karnail Singh (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. HDFC ERGO General Insurance Company Ltd.) of Tractor bearing registration No. UP-79A-3705 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3, respectively, in the appeal.

The issues involved in the present appeal are that no

future prospects have been awarded and the amounts awarded under the conventional heads are not in consonance with the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others, AIR 2017 SC 5157.**

The facts are not disputed by the parties. A motor vehicular accident took place on 23.04.2009, which proved fatal for Karnail Singh, aged 35 years. The accident was caused due to the rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

The Tribunal awarded ₹8,05,000/- as compensation alongwith interest @ 7% per annum. The amount awarded included ₹10,000/- for transportation and cremation; ₹25,000/- for loss of consortium and ₹50,000/- for loss of love and affection.

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

Learned counsel for the insurer argues that the amount of ₹85,000/- awarded by the Tribunal under conventional heads may be made in consonance with the decision of the Supreme Court in **Pranay Sethi's case** (supra).

As there is no dispute regarding the loss of dependency 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 is awarded as future prospects. 40% of ₹7,20,000/- i.e.

₹2,88,000/- is awarded as future prospects, as the deceased was below 40 years of age and fall under the category of self-employed or a person having fixed wages.

As the quantum of compensation is being revisited, the compensation awarded under the conventional heads is made as per the 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. No amount is awarded for loss of love and affection.

In view of above discussion, net result is that the amount of ₹8,05,000/- awarded by the Tribunal is enhanced by ₹2,73,000/-.

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 disposed of in aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

February 25, 2019

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