

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

**FAO No.5099 of 2018
Date of Decision: 07.02.2019**

Sharanjit Kaur and others

Appellants

Versus

Sukhchain Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. S.S. Sidhu, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

The award dated 01.11.2017 passed by the Motor Accident Claims Tribunal, Bathinda [for brevity 'the Tribunal'] has been assailed by the legal heirs of Mohinder Singh seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The appellants are widow and two sons of the deceased. The driver, owner and insurer (i.e. New India Assurance Company Ltd.) of Bolero Jeep bearing registration No. PB-03AB-6025 [hereinafter referred to as 'offending vehicle'] have been arrayed as

respondents No.1 to 3 respectively in the appeal.

Brief facts of the case are that on 18.07.2016, Mohinder Singh alongwith Gurmeet Singh was riding a motorcycle bearing registration No. PB-03Y-1552. On their way, the motorcycle was hit by a rashly and negligently driven offending vehicle. As a result of the impact, Mohinder Singh sustained injuries and ultimately succumbed to the injuries on 15.10.2016. FIR was registered.

A claim petition under Section 166 of the Act was filed. It was pleaded that the deceased was 55 years old at the time of accident and was an agriculturist. The claimants failed to prove the earning of the deceased. The Tribunal assessed earning of the deceased as ₹10,000/- per month; 1/3rd deduction for self-expenses was made and multiplier of '11' was applied. The Tribunal awarded compensation of ₹25,69,930/- alongwith interest @ 7.5% per annum.

The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. The insurer of the offending vehicle was held liable to pay the compensation.

The contention raised by learned counsel for the appellants is that no future prospects have been awarded.

There is no dispute between the parties with regard to loss of dependency of ₹8,84,400/- calculated by the Tribunal. Having due regard to the decisions of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157** and **Hem Raj Vs. Oriental Insurance Company**

Ltd. 2018 (2) PLR 480, 10% future prospects are awarded to the claimants as the deceased was 55 years old at the time of accident and falls within the category of self-employed or a person having an established income. ₹88,440/- (i.e. 10% of ₹8,84,400/-) are awarded as future prospects.

The award dated 01.11.2017 is modified to the extent that amount of ₹25,69,930/- awarded by the Tribunal is enhanced by ₹88,440/-.

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

The appeal is allowed in the aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

February 07, 2019
pankaj baweja

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