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

**FAO No.8222 of 2017 (O&M)
Date of Decision : 06.05.2019**

Ram Prakash and others

Appellants

Versus

Raj Kumar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.S. Rozera, Advocate
for the appellants.

Mr. Varun Sharma, Advocate for
Mr. Satpal Dhamija, Advocate
for the respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral)

The award dated 27.10.2016 passed by the Motor Accident Claims Tribunal, Faridabad [for brevity 'the Tribunal'] has been assailed by the legal representatives of Gayatri Devi (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. SBI General Insurance Company Ltd.) of Truck bearing registration No. UK-

07CA-8243 [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 04.10.2015. The accident was result of rash and negligent driving of the offending vehicle. The accident proved fatal for Gayatri Devi, aged 37 years. FIR No.298, dated 04.10.2015 was registered at Police Station Kotwai, Roorkee, Haridwar. 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 proved that the deceased was an employee of M/s Jindal Gas Appliances Pvt. Ltd. and was earning ₹22,700/- per month. The Tribunal calculated compensation by taking her monthly income as ₹22,700/-; made 1/3rd deduction for self-expenses as the deceased was survived by three dependents and applied multiplier of '15', considering the fact that she was 37 years old at the time of accident. The Tribunal awarded compensation of ₹28,69,120/- alongwith interest @ 7.5% per annum. The amount awarded included ₹1,00,000/- for loss of consortium; ₹25,000/- for funeral expenses and ₹20,000/- for loss of love and affection.

The 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 amounts awarded for loss of consortium and funeral expenses are 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. ₹27,24,120/- 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. ₹10,89,648/- is awarded towards future prospects as the deceased was below 40 years of age and fell in the category of person 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 claimants are

entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- are awarded to the spouse for loss of consortium. No amount is awarded for loss of love and affection.

The net effect is that amount of ₹1,45,000/- awarded under the conventional heads is reduced to ₹70,000/-.

The award dated 27.10.2016 is modified to the extent that amount of ₹28,69,120/- awarded by the Tribunal is enhanced by ₹10,14,648/-.

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 |