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

**FAO No.5617 of 2018
Date of Decision : 09.04.2019**

Mukesh Devi and another

Appellants

Versus

Ramesh Chand and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.K. Yadav, Advocate
for the appellants.

Mr. Pradeep Goyal, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral)

The award dated 18.05.2018 passed by the Motor Accident Claims Tribunal, Narnaul [for brevity 'the Tribunal'] has been assailed by the parents of Siya Ram 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. United India Insurance Company Ltd.) of Tractor bearing registration No. HR-35H-3979 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum with regard to accident is not in dispute between the parties. A motor vehicular accident took place on 10.02.2017 which proved fatal for Siya Ram. FIR No.33, dated 10.02.2017 was registered at Police Station Sadar, Narnaul. The accident was result of 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.

In the claim proceedings, the claimants failed to establish occupation and earning of the deceased. The Tribunal assessed monthly earning of the deceased as ₹12,800/- treating him as a skilled labourer; ½ deduction for self-expenses was made as the deceased was unmarried and multiplier of '18' was applied as the deceased was 20 years old at the time of accident. The Tribunal awarded compensation of ₹14,12,400/- alongwith interest @ 7% per annum. The amount awarded included ₹30,000/- under the conventional heads.

The only issue raised in the present case is that no future prospects have been awarded.

The deceased was 20 years old at the time of accident and fell in the category of self-employed or a person having fixed wages. 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**, 40% future prospects are awarded. As there is no dispute to the loss

of dependency i.e. ₹13,82,400/- calculated by the Tribunal, 40% of the said amount i.e. ₹5,52,960/- are awarded for future prospects.

The award dated 18.05.2018 is modified to the extent that the amount of ₹14,12,400/- awarded by the Tribunal is enhanced by ₹5,52,960/-.

The claimants shall be entitled to the enhanced amount alongwith interest as awarded by the Tribunal, from the date of filing of the claim petition till realization of the amount.

The appeal is allowed.

[AVNEESH JHINGAN]
JUDGE

April 09, 2019
pankaj baweja

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

No