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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. FAO No.8345 of 2017 (O&M)
Date of Decision : 30.04.2019

New India Assurance Company Ltd.
Appellant
Versus
Nitu Devi and others
Respondents

2. FAO No.3241 of 2018 (O&M)
Nitu Devi and others
Appellants
Versus
Milap Singh and others
Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Pardeep Goyal, Advocate
for the appellant [in FAO No.8345 of 2017]
for respondent No.3 [in FAO No.3241 of 2018].

Mr. B.R. Rana, Advocate
for the appellants [in FAO No.3241 of 2018]
for respondents No.1 to 5 [FAO No.8345 of 2017].

None for respondents No.6 and 7
[in FAO No.8345 of 2017] &
respondents No.1 and 2
[in FAO No.3241 of 2018].

AVNEESH JHINGAN, J (Oral)

The award dated 10.08.2017 passed by the Motor
Accident Claims Tribunal, Ludhiana [for brevity 'the Tribunal'] has
been assailed by filing two cross appeals. One by the insurer of
Canter 1109 bearing registration No. HR-55G-9381 [hereinafter

referred to as 'offending vehicle'] and another by legal representatives of Siri Bhagwan Ray (deceased). The grievance raised in both the appeals is with regard to quantum of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The pin-pointed issue raised by learned counsel for the claimants is that no future prospects have been awarded and insurer's grievance is that amounts be awarded under the conventional heads as per the decision of Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.**

There is no dispute between the parties with regard to factum of the accident. A motor vehicular accident took place on 27.04.2015, the same proved fatal for Siri Bhagwan Ray, aged 26 years. The accident was result of rash and negligent driving of the offending vehicle. FIR No.60, dated 28.04.2015 was registered at Police Station Doraha. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

There is no challenge to the income of the deceased assessed by the Tribunal i.e. ₹7,000/-; 1/4th deduction made for self-expenses and multiplier applied of '17'.

The Tribunal awarded compensation of ₹12,96,000/- alongwith interest @ 9% per annum. The amount awarded

included ₹1,00,000/- for loss of consortium; ₹25,000/- for funeral expenses and ₹1,00,000/- for loss of love and affection.

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

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

Learned counsel for the insurer argues that amounts awarded under the conventional heads are on the higher side and no amount be awarded for loss of love and affection.

As the deceased was below 40 years of age at the time of accident and fell in the category of self-employed or having fixed wages, in consonance with the decision 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.

Since there is no dispute with regard to loss of dependency i.e. ₹10,71,000/- calculated by the Tribunal, 40% of the said amount i.e. ₹4,28,400/- is awarded towards future prospects.

As the quantum of compensation is being revisited, it would be appropriate that amounts under the conventional heads be awarded as per the decision of the Supreme Court in **Pranay Sethi's** case (supra). The claimants shall 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. No amount is awarded for loss of love and affection. The net effect is that amount of ₹2,25,000/- awarded under the conventional heads is scaled down to ₹70,000/-.

The award dated 10.08.2017 is modified to the extent that amount of ₹12,96,000/- awarded by the Tribunal is enhanced by ₹2,73,400/-.

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.

Both the appeals are disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

April 30, 2019
pankaj baweja

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

No