IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6172 of 2018 (O&M)

Date of Decision: 07.05.2019

Om Paraksh and another

.......Appellants

Versus

Sanjay Kumar and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.K. Saini, Advocate
for the appellants.

AVNEESH JHINGAN, J.(oral)

The present appeal has been filed against the award dated 11.10.2017 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

Appellants are parents of deceased-Abhilesh .

Driver, owner and insurer (i.e. Tata A.I.G. General Insurance Company Limited) of vehicle bearing registration No. HR55-L-7204 (for short 'the offending vehicle') have been arrayed as respondents No. 1 to 3.

The bare facts are that a motor vehicular accident took place on 29.8.2016. The accident proved fatal for Abhilesh aged 18 years. The accident was result of rash and negligent driving of offending vehicle. The insurer of the offending vehicle was held liable to pay compensation. The claimants failed to prove the monthly earning of the deceased. His monthly income was assessed by the Tribunal as ₹ 9000/- considering him to be labourer, 50% future prospects were awarded. The detail of compensation is reproduced below:

Sr. No.	Heads of claim	Amount in ₹
1.	Annual Income	9000X12=1,08,000/-
2.	50% to be added as future prospects i.e. 2250/- (4500-2250(1/2) x12x18 =4,86,000/-	4,86,000/-
3.	½ deducted as personal expenses of the deceased	1,08,000x1/2= 54,000/- P.A.
4.	Compensation after applying multiplier of 18.	54000X18= 9,72,000/-
5.	Loss of love & affection	1,00,000/-
6.	Transportation and funeral expenses	50,000/-
7.	Total compensation awarded	₹ 16,08,000/-

A total sum of ₹ 16,08,000/- was awarded along with interest at the rate of 6% per annum. As the matter with regard to future prospects was pending, the amount awarded for future prospects of ₹ 4,86,000/- was directed to be deposited in FDR till the decision.

Learned counsel for the appellants concedes that there is no scope for enhancement. He contends the amount for future prospects which is kept in FDR be released to the claimants.

From the perusal of the award, it is evident that the amount of future prospects was kept in FDR only to await the decision with regard to future prospects. The issue has already been decided by 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***. According to the said decision as the deceased fell in the category of self-employed or having fixed wages, 40% future prospects are to be awarded.

The appellants shall be at liberty to move an application before the Tribunal for release of the amount according to the decision of the Supreme Court in **Pranay Sethi's case (supra)**. In case such an application is made, there is no doubt that the same will be dealt with expeditiously.

The appeal is disposed of.

(AVNEESH JHINGAN)
JUDGE

07.05.2019
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Whether speaking/reasoned	Yes
Whether Reportable:	No