

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6190 of 2018 (O&M)

Date of Decision: 20.03.2019

Smt. Kamlesh and another

.....Appellants

Versus

Gajraj Singh and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vinod K. Kawal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

AVNEESH JHINGAN, J.(oral)

The award dated 15.12.2017 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') has been assailed by the legal heirs of Varinder Singh @ Vinay, seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The appellants are the parents of deceased-Varinder Singh @ Vinay. Respondents No.1 to 3 are the driver, owner and insurer (i.e United India Insurance Company Ltd.) of Truck-Trailer bearing registration No.RJ01-GB-8411 (for short 'the offending vehicle') and respondents No. 4 to 6 are the driver, owner and insurer (i.e. The New India Insurance Company Ltd.) of Tanker bearing registration No.PB-11-BA-5302 (for short 'the Tanker').

The facts necessary for adjudication of the present appeal are summarised below:

On 23.12.2016 Varinder Singh @ Vinay was sitting on the cleaner's seat of the Tanker. The Tanker was being driven by Gurjeet Singh. They were going from Ambala to Karnataka. At about 9:30 p.m., when they reached ahead of Bandanwada Pulia near toll Naka within the area of P.S. Bhinai, District Ajmer (Rajasthan), the offending vehicle was parked in the middle of the road without any indication or parking lights being switched on. The Tanker struck the offending vehicle from behind, as a result of the impact, Varinder Singh @ Vinay sustained grievous injuries. He was taken to Nasirabad Hospital but he succumbed to the injuries. FIR No. 414 dated 24.12.2016 was registered at Police Station Bhinai.

In the claim petition, it was pleaded that the deceased was 22 years of age and was working as a cleaner of the truck. His income was claimed as ₹ 16,000/- per month. The claimants failed to prove the earning of the deceased. The Tribunal assessed the earning as ₹ 10,520/- per month treating him to be skilled labourer; 40% future prospects were awarded; 1/2nd deduction was made for self-expenses as he was un-married and multiplier of 18 was applied. The Tribunal awarded a sum of ₹ 16,05,624/- which included ₹ 15,000/- for funeral expenses, along with interest at the rate of 6% per annum.

The Tribunal on considering the facts and appreciating the evidence adduced held that the accident was caused due to negligent parking of the offending vehicle. Driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

The only contention raised by learned counsel for the appellants is that no amount was awarded for loss of estate.

The contention raised by learned counsel for the appellants is

Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.

It is not deemed appropriate to issue notice to the insurer of the offending vehicle at this stage. In consonance with the decision of the Supreme Court in **Pranay Sethi's case (supra)** ₹15,000/- is awarded for loss of estate .

The net result is that the amount awarded by the Tribunal of ₹ 16,05,624/- is enhanced by ₹ 15,000/-. The claimants shall be entitled to enhanced amount alongwith interest @ 6% per annum from the date of filing the claim petition till the realization of the amount.

It is however, clarified that in case there is any grievance of the insurer against the above order, it will be at liberty to revive the appeal by moving an application.

Disposed of accordingly.

20.03.2019

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable:	No