

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 6249 of 2018

Date of decision: 29.3.2019

Meena and others

.. Appellants

v.

Nishan Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Neha Rana, Advocate for the appellants.

...

AVNEESH JHINGAN, J. (Oral)

The wife, two minor children and mother of Aamir Khan (deceased) are in appeal against the award dated 7.3.2018 passed by the Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The respondents in the appeal are the driver, registered owner superdar of Canter bearing registration No. HP17A-9438 (hereinafter referred to as 'the offending vehicle') and the insurer (i.e. National Insurance Company Limited) of the offending vehicle. Father of deceased has been arrayed as proforma respondent.

The facts necessary for adjudication of the present appeal are

that on 4.11.2016, Aamir Khan was riding motorcycle bearing temporary

No. HR99ZL(TP)-1771. His father was the pillion rider. On the way, the motorcycle was struck by the offending vehicle, as a result of the impact, both the riders fell down. Aamir Khan fell on the metalled road, sustained grievous injuries and his mouth was crushed. He was taken to Kalpana Chawla Government Medical College and Hospital, Karnal where he was declared dead. FIR No. 1022 dated 5.11.2016 was registered at Police Station Sadar Karnal.

In the claim proceedings, it was pleaded that the deceased was about 25 years of age at the time of accident and was earning ₹21,000/- per month. The Tribunal assessed the monthly income of the deceased as ₹21,000/- relying upon various income tax returns, 40% future prospects were awarded, 1/4th deduction for self expenses was made as the deceased was survived by five dependants and multiplier of '17' was applied, as the age of the deceased was taken as 26 years as per the post mortem report. The Tribunal awarded a sum of ₹45,68,200/- along with interest @ 7% per annum. The amount awarded included ₹40,000/- for loss of consortium, ₹15,000/- each for loss of estate and for funeral expenses.

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

Heard learned counsel for the appellants and perused the paper book.

The only contention raised by learned counsel for the appellants is that no amount has been awarded for loss of love and affection

to the children and the amount of ₹40,000/- awarded for loss of consortium is on the lower side.

The contention raised by learned counsel for the appellants is not well founded.

The issue with regard to the amount to be awarded under the conventional heads has been dealt with by five-Judge Bench of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, AIR 2017 SC 5157.

As per the said decision, the amounts to be awarded under the conventional heads have been fixed i.e. ₹15,000/- each to be paid for funeral expenses and for loss of estate and ₹40,000/- for loss of consortium to the widow. It has further been held by the Supreme Court that with the change of price index, the said amount would be enhanced by 10% every three years.

In view of the authoritative decision, no amount can be awarded for loss of love and affection and filial consortium. It has further been held by the Supreme Court in **Pranay Sethi's case (supra)** that the head relating to loss of love and affection of the minor children does not exist.

In view of the decision of five-Judge Bench of the Supreme Court in **Pranay Sethi's case (supra)**, amount to be awarded under conventional heads would be ₹70,000/- i.e. ₹15,000/- for loss of estate, ₹15,000/- for funeral expenses and ₹40,000/- for loss of consortium.

As only issue with regard to enhancement of amount awarded for loss of consortium, for granting amount for loss of love and affection is raised, there is no scope for enhancement.

The appeal is accordingly dismissed. Since the appeal has been decided on merits itself, the question of limitation is left open.

(AVNEESH JHINGAN)
JUDGE

29.3.2019
mk

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No