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

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**FAO No.644 of 2018 and
XOBJC No.159-CII of 2018 (O&M)
Date of Decision: 16.01.2019**

IFFCO TOKIO General Insurance Company Ltd.

Appellant

Versus

Chandro Devi and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Swati Batra, Advocate
for the appellant.

Mr. Sandeep Kotla, Advocate
for respondents No.1, 2, 3, 5 and 6-Cross Objectors.

Mr. Bhuwan Vats, Advocate
for respondent No.7.

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AVNEESH JHINGAN, J (Oral):

The insurer of Car bearing registration No. HR-09D-5827 [hereinafter referred to as 'offending vehicle'] is in appeal against award dated 03.10.2017 passed by the Motor Accident Claims Tribunal, Fatehabad [for brevity 'the Tribunal'].

The grievance raised in the appeal is that an amount of ₹3,25,000/- has been awarded on account of funeral expenses; loss of consortium and loss of love & affection.

The claimants i.e. legal heirs of Ram Dass have filed cross-objection seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The brief facts necessary for adjudication of the present appeal are that a motor vehicular accident took place on 10.06.2016. The accident proved fatal for Ram Dass. At the time of accident, he alongwith his cousin was riding a motorcycle bearing registration No. HR-23C-7161. On their way, the motorcycle was struck by a rashly and negligently driven offending vehicle. As a result of the injuries sustained in the accident, Ram Dass died in the hospital. FIR No.247, dated 10.06.2016 was registered.

A claim petition was filed under Section 166 of the Act. It was pleaded before the Tribunal that the deceased was a government employee and was drawing a salary of ₹44,090/- per month. The Tribunal after deducting the tax payable, considered the monthly income of the deceased as ₹43,290/- for calculating the compensation. The deceased was 48 years old at the time of accident. The tribunal awarded 30% future prospects, 1/4th deduction for self-expenses was made and multiplier of '13' was applied. The Tribunal calculated the loss of dependency as ₹65,84,409/-. The claimants received the compensation under *Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006.* In consonance with the decision of the Supreme Court in ***Reliance General Insurance Co. Ltd. Vs. Shashi Sharma and others 2016 (12) JT 409,*** after making the deduction of compensation received, ₹33,04,797/- was found payable to claimants. Alongwith the said amount, ₹25,000/- for funeral expenses; ₹1,00,000/- for loss of consortium and ₹2,00,000/- for loss of love & affection were awarded. The claimants were held entitled to interest @ 7.5% per annum.

Learned counsel for the insurer has raised only one issue i.e. no amount can be awarded for loss of love & affection and the amounts awarded under the conventional heads should be awarded in consonance with the decision of the Supreme Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.***

Learned counsel for the claimants could not raise any serious objection in view of the decision of the Supreme Court. In the cross-objection, learned counsel for the claimants was not able to make out case for any further enhancement of compensation.

The contention raised by learned counsel for the appellant deserves acceptance. Having due regard to the decision of the Supreme Court in ***Pranay Sethi's*** case (supra), the claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate. ₹40,000/- are awarded to the widow for loss of consortium. No amount is to be awarded for loss of love & affection.

The award dated 03.10.2017 is modified to the extent that amount of ₹36,29,797/- ordered to be paid is reduced by an amount of ₹2,55,000/-.

In the appeal filed by the insurer, notice of motion was issued on 01.02.2018 and payment beyond ₹33,00,000/- was ordered to be stayed. The insurer shall deposit the balance amount with the Tribunal within six weeks from today alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount.

The cross-objection is dismissed and the appeal is allowed.

[AVNEESH JHINGAN]
JUDGE

January 16th, 2019
pankaj baweja

1. Whether speaking/reasoned : **Yes**/ No
2. Whether reportable : **Yes**/ No