

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 7412 of 2018 (O&M)
DECIDED ON: MAY 30, 2019

VISHAKHA AND OTHERS

.....APPELLANTS

VERSUS

KULDEP SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Kotla, Advocate
for the appellants.

Ms. Neha, Advocate for
Mr. S.S. Sidhu, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral)

The award dated 06.03.2018 passed by the Motor Accident Claims Tribunal, Hisar (for brevity 'the Tribunal') has been assailed by the legal representatives of Sunil Kumar (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

The driver, owner and insurer (i.e. The New India Assurance Company Ltd.) of car bearing registration No. HR-20-AD-9450 (hereinafter referred to as 'offending vehicle') have been arrayed as respondents No.1 to 3 respectively in the appeal.

The factum of the accident is not disputed by the parties. A motor vehicular accident took place on 02.04.2016. The accident proved fatal for Sunil Kumar aged 24 years. The accident was result of rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

In the claim proceedings, it was pleaded that the deceased was earning ₹15,000/- per month from agriculture and selling milk. But the claimants failed to prove the occupation and earning of the deceased, the Tribunal assessed the monthly income of the deceased as ₹8000/-; 1/4th deduction for self-expenses was made, as the deceased was survived by four dependents and multiplier of '18' was applied, considering the age of deceased as 24 at the time of accident. The Tribunal awarded compensation of ₹13,66,000/- alongwith interest @ 7% per annum. Apart from the said amount a sum of ₹ 70,000/- was awarded under the conventional heads.

The only issue raised in the present appeal is that no future prospects were awarded.

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

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

Learned counsel for the insurer argues that the claimants failed to prove the occupation and earning of the deceased, she resisted any further enhancement.

There is no challenge by the parties to the loss of dependency i.e. ₹12,96,000/- calculated by the Tribunal. Having due regard to the decisions 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% of the said amount i.e. ₹5,18,400/- is awarded towards future prospects as the deceased was below 40 years of age and fell in the category of self-employed or person having fixed wages.

The award dated 06.03.2018 is modified to the extent that amount of ₹13,66,000/- awarded by the Tribunal is enhanced by ₹5,18,400/-.

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.

The appeal is allowed.

(AVNEESH JHINGAN)
JUDGE

MAY 30, 2019
sham

<i>Whether speaking/ reasoned</i>	:	<i>Yes</i>
<i>Whether reportable</i>	:	<i>No</i>