

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

**FAO No.1087 of 2017 (O&M)
Date of Decision: 13.02.2019**

Deepa Devi and another

Appellants

Versus

Jagdama Parshad Pandey and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Jaideep Verma, Advocate
for the appellants.

Ms. Shamsheer Kaur, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 06.10.2016 passed by the Motor Accident Claims Tribunal, Rupnagar [for brevity 'the Tribunal'] has been assailed in the appeal by the legal heirs of Manohar Singh seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The appellants are widow and one minor daughter of Manohar Singh. The driver, owner and insurer (i.e National Insurance Company Ltd.) of truck/tanker bearing registration No. HR-55N-0263 [hereinafter referred to as 'offending vehicle'] are respondents No.1 to 3 respectively in the appeal.

Brief facts of the case are that a motor vehicular accident took place on 20.12.2015. The accident was the result of rash and negligent driving of the offending vehicle and the same proved fatal for Manohar Singh, aged 24 years. FIR No. 131, dated 21.12.2015 was registered.

In the claim petition filed under Section 166 of the Act, the owner, driver and insurer of offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal assessed monthly income of the deceased as ₹6,900/-; 1/3rd deduction for self-expenses was made and multiplier of '18' was applied. The Tribunal awarded a sum of ₹11,43,600/- alongwith interest @ 9% per annum. The amount awarded included ₹1,00,000/- for loss of consortium; ₹25,000/- for funeral expenses and ₹25,000/- for loss of love & affection.

The only contention raised by learned counsel for the appellants is that no future prospects have been awarded.

Learned counsel for the insurer while defending the award argues that amounts awarded under the conventional heads are on the higher side and no amount should be awarded for loss of love and affection.

There is no dispute between the parties with regard to loss of dependency of ₹9,93,600/- calculated by the Tribunal.

The deceased was below 40 years of age and would fall in the category of self-employed or a person having fixed income. 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% future prospects are awarded i.e. ₹3,97,440/- [40% of ₹9,93,600/-].

As the quantum of compensation is being revisited, it is considered appropriate that the amounts under the conventional heads are made in consonance with the decision of the Supreme Court in Pranay Sethi's case. The claimants are entitled to ₹15,000/- each for funeral expenses and for loss of estate. ₹40,000/- are awarded to the widow for loss of consortium. No amount for loss of love & affection is awarded. Consequently, amount of ₹1,50,000/- awarded under various heads is reduced to ₹70,000/-.

The net effect is that amount of ₹11,43,600/- awarded by the Tribunal vide award dated 06.10.2016 is enhanced by ₹3,17,440/-.

The appellants shall be entitled to the enhanced amount alongwith interest as awarded by the Tribunal.

[AVNEESH JHINGAN]
JUDGE

February 13, 2019
pankaj baweja

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