

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.8365 of 2017 (O&M)
Date of Decision: 07.03.2019

Lata Rani

Appellant

Versus

Narinder Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Baidwan, Advocate for
Mr. B.S. Randhawa, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 08.03.2017 passed by the Motor Accident Claims Tribunal, Rupnagar [for brevity 'the Tribunal'] has been assailed by mother of Mohit 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. National Insurance Company Ltd.) of Bus bearing registration No. PB-12M-9181 [hereinafter referred to as 'offending vehicle'] have been arrayed as respondents No.1 to 3 respectively in the appeal.

The facts of the case are not in dispute. A motor vehicular accident took place on 02.03.2016, same proved fatal for

Mohit Kumar, aged 22 years. The accident was caused due to the rash and negligent driving of the offending vehicle. FIR no.17, dated 02.03.2016 was registered at Police Station Nurpur Bedi.

A claim petition was filed under Section 166 of the Act. The Tribunal assessed monthly earning of the deceased as ₹7,000/- per month; ½ deduction for self-expenses was made as the deceased was a bachelor and multiplier of '18' was applied. The Tribunal awarded compensation of ₹8,31,000/- alongwith interest @ 6% per annum. The amount awarded included ₹25,000/- for funeral expenses and ₹50,000/- for loss of love and affection. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay the compensation.

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

Two issues which arise in the present appeal are that no future prospects have been awarded and the amounts awarded under the conventional heads are to be made in consonance with the decision of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.**

Since the deceased was below 40 years of age at the time of accident and falls under the category of self-employed or a person having fixed wages, having due regard to the decisions of the Supreme Court in **Pranay Sethi's** case (supra) and **Hem Raj Vs. Oriental Insurance Company Ltd. 2018 (2) PLR 480,** 40%

future prospects are awarded. As there is no dispute with regard to loss of dependency i.e. ₹7,56,000/- calculated by the Tribunal, 40% of the said amount i.e. ₹3,02,400/- are awarded as future prospects. The claimant shall also be entitled to ₹15,000/- each for funeral expenses and for loss of estate. No amount is awarded for loss of love and affection.

The net result is that the award dated 08.03.2017 is modified to the extent that the amount of ₹8,31,000/- awarded by the Tribunal is enhanced by ₹2,57,400/-.

The claimant 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

March 07, 2019

pankaj baweja

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