IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1458 of 2004(O&M)

Date of Decision: September 17 , 2015.

Kamaljit Kaur and others ...... APPELLANT (s)

Versus

Harnek Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vikram Preet Arora, Advocate
for the appellants.

Ms. Rajwinder Kaur, Advocate
for respondents No.1 and 2.

Mr. Vikas Mohan Gupta, Advocate
for respondent No.3 – Insurance Company.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

Present appeal has been preferred by the widow and minor children of the deceased – Ranjit Singh claiming enhancement of compensation granted to them on account of his death by the Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as, the 'Tribunal') vide impugned award dated 18.09.2003.

Brief facts of the case as disclosed in the claim petition are that, Ranjit Singh (since deceased) was proceeding towards Amloh from Khanna on his scooter bearing registration No. PB-23A-1711 on 15.09.1997 at about 2.00 p.m. When he was passing in front of a Ghee mill near village Shahpur, a Maruti car bearing registration No. HR-02-8890 being driven in a rash and negligent manner and at a high speed by its driver Harnek Singh, respondent No.1, came from the opposite side and struck against Ranjit Singh's scooter. Resultantly, he suffered fatal injuries and died at the spot. FIR No. 28.09.1997, Ex.P5 was registered against the erring driver.

Claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') was preferred by the present appellants claiming compensation to the tune of ₹15 lacs. It was averred that deceased was 47 years old at the time of accident employed as Audit Inspector, Cooperative Societies, Punjab. He was earning ₹7,000/- per month.

Claim petition was contested by all the respondents and the following issues were framed:-

> "1. Whether Ranjit Singh, died as a result of rash and negligent driving of Maruti Car No. HR-02-8890 driven by respondent No.1? OPP
> 2. Whether respondent No.1 was not holding the valid driving licence at the time of accident? OPR3
> 3. If issue No.1 proved, whether the claimants are entitled to the compensation for what amount and from whom? OPP
> 4. Relief."

Learned Tribunal while appreciating the evidence on record concluded that deceased-Ranjit Singh sustained fatal injuries in the accident which occurred on 15.09.1997. This accident was caused due to the rash and negligent driving of the offending vehicle by respondent No.1 – Harnek Singh.

A total sum of ₹2,12,000/- was awarded to the claimants. He was drawing a salary of ₹7,480/- per month which is not in dispute. Learned Tribunal after making a deduction on account of personal expenses, assessed his income as ₹5,500/- per month and thereafter, deducted further amount of ₹4,000/- i.e. the amount which the claimant Kamaljeet Kaur widow of Ranjit Singh was receiving as family pension. Ultimately, income of the deceased was assessed at ₹1,500/- per month. A multiplier of 11 was applied and compensation amount worked out as ₹1,98,000/-. A sum of ₹10,000/- was awarded for loss of consortium and ₹4,000/- for funeral expense, total amount of compensation being ₹2,12,000/-.

Learned counsel for the appellant vehemently argues that an extremely meagre amount of compensation has been awarded. Amount of pension received by the widow could not have been deducted. No compensation has been awarded on account of loss of future prospects, love and affection to the minor children as well. A meagre amount on account of loss of consortium and funeral expenses has been granted.

Learned counsel for respondents however pray for upholding the compensation awarded by the learned Tribunal vide impugned award as being reasonable and justified in the facts and circumstances of the case.

I have heard learned counsel for the parties and gone through the record.

There is no dispute that deceased – Ranjit Singh was working as an Audit Inspector in the department of Cooperative Societies, Punjab, drawing a monthly salary of ₹7480/- as per salary certificate, Ex.C5. It is a settled position of law that no deduction can be effected on account of family pension, which the claimants may be receiving. It has been specifically held by the Hon'ble Supreme Court in **Vimal Kanwar and others v. Kishore Dan and others**, ***(2013) 7 SCC 476*** as well as number of other decisions that amounts such as provident fund, pension, life insurance receivable by the claimants on account of the victim's death do not come within the periphery of the Act to be termed as pecuniary advantages liable for deduction. Therefore, a sum of ₹4,000/- per month has been wrongly deducted by the Tribunal from the income of the deceased. Income of the deceased is, thus, taken as ₹7,480/- per month.

It is equally well settled that an addition in income has to be afforded on account of loss of future prospects. Deceased, in the present case, was in public employment and admittedly, 47 years old at the time of accident. In terms of judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil) 77*** he is entitled to addition in income to the extent of 30% on account of loss of future prospects.

There being three dependants, deduction of 1/3rd has to be applied. Therefore, deduction of 1/3rd (i.e., ₹2,493.33 rounded off to ₹2,493/-) on account of personal expenses and addition of 30% (i.e., ₹2,244/-) on account of loss of future prospects is made in terms of Sarla Verma's case (supra), rendering the income of the deceased to be ₹7,231/- per month (7,480-2,493+2,244). Thus, the annual dependancy of the claimants is assessed as ₹86,772/-. As the deceased was, admittedly, 47 years old at the time of accident, it is a multiplier of 13 and not 11 which is to be applied. Loss of dependancy works out to be ₹11,28,036/- (86,772x13).

Appellant No.1 is also entitled to ₹1,00,000/- on account loss of consortium. Appellants No.2 and 3 i.e., minor children of the deceased are entitled to ₹1,00,000/- (₹50,000/- each) on account of loss of love and affection. Appellants-claimants are also entitled to ₹15,000/- on account of funeral expenses as the accident took place on 15.09.1997. Appellants-claimants are, thus, entitled to enhanced amount of compensation of **₹13,38,036/-**, detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Loss of Dependancy (7,231x12x13)	₹11,28,036/-
2.	Loss of consortium to the wife	₹1,00,000/-
3.	Loss of love and affection ₹50,000/- each to both the children	₹1,00,000/-
4.	Funeral expenses	₹15,000/-
	Grand Total	₹13,43,036/-

Compensation already awarded to the claimants by the Tribunal shall stand deducted from the amount as detailed above. Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of petition till realization.

With the above modification in the award dated 18.09.2003 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib, present appeal is disposed of.

(LISA GILL)
JUDGE

September 17 , 2015.
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