IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 175 of 1992(O&M)

Date of Decision: September 07 , 2018.

Javedan and others ...... APPELLANT (s)

Versus

Madan Lal and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Jaspal Singh Maanipur, Advocate and
Ms. Sonam Janjua, Advocate
for the appellants.

Mr. G.D.Gupta, Advocate
for respondent No.4 – 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.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Yamunanagar at Jagadhri (for short, the 'Tribunal') vide impugned award dated 09.09.1991 on account of death of Riyazat Ali in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Riyazat Ali, who lost his life in a motor vehicle accident which took place on 19.08.1990. FIR (Ex.P1) under Sections 279/304A IPC was registered at Police Station Bilaspur against respondent No.1-Madan Lal. The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of Bus bearing registration No. HYE-6043 by respondent No.1 – Madan Lal. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹40,000/- as compensation to the appellants-claimants vide impugned award. The deceased was 20 years old at the time of the accident. Income of the deceased was assessed as ₹2,500/- per annum. Multiplier of 16 was applied.

Learned counsel for the appellants submits that increase in income at the rate of 40% be afforded on account of future prospects in view the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. It is further submitted that the learned Tribunal has erred in applying a multiplier of 16 keeping in view the age of the deceased at the time of the accident. The amount under the conventional heads has also not been awarded.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for any enhancement of the compensation as the same is reasonable and justified in the facts and circumstances of the case.

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

Liability of the Insurance Company is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Madan Lal. The deceased was stated to be running a cycle repairs shop as well as dairy business, earning ₹2,500/- per month. However, there is no evidence on record in this respect except the bald statement of PW1-Azizudin, father of the deceased. Daily wages of an unskilled labourer as on the date of accident were ₹815/- per month in the State of Haryana. In this situation, the income of the deceased is assessed as ₹815/- per month. Increase in income at the rate of 40% on account of loss of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). Deduction to the extent of 50% is to be effected. Multiplier of 18 is to be applied as the deceased was 20 years old at the relevant time in view of the judgment of the Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (*2015) 6 SCC 347*.** ₹15,000/- each towards funeral expenses and loss of estate are awarded to the appellants.

Appellants-claimants are, thus, entitled to the amount of compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	815 p.m. i.e. ₹9,780/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	9,780 + (9,780 **x** 40%) = 13,692
3.	Income after deduction of 50% on account of personal expenses	13,692 – (13,692 **x** 1/2) = 6,846
4.	Total dependancy after applying a multiplier of 18	(6,846 **x** 18) = 1,23,228
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
	Grand Total	₹1,53,228/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 07 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No