IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 813 of 1989(O&M)

Date of Decision: July 05 , 2018.

Raj Kaur ...... APPELLANT (s)

Versus

Brig. Kushal Pal Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: None for the appellant.

Mr. Rahul Pathania, Advocate for
Mr. R.C.Kapoor, Advocate
for the respondent – Insurance Company.

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LISA GILL, J.

This is an appeal by the claimant – Raj Kaur seeking enhancement of compensation awarded to her by the learned Motor Accident Claims Tribunal, Patiala (for short, the 'Tribunal') vide impugned award dated 21.01.1989 on account of death of her husband – Sohan Singh in a motor vehicle accident.

It is noticed that records of this case were burnt in the fire which took place on 1996. The present file has been reconstructed. None had appeared on behalf of the appellant, despite the learned counsel for the appellant being notified of the date fixed in this case. The matter was however adjourned in the interest of justice. Today again, there is no representation on behalf of the appellant despite the matter being called twice.

Keeping in view the fact that the present is a claimant's appeal of 1989, it is considered just and appropriate to decide this case on merits rather than unnecessarily delay the matter.

Brief facts necessary for adjudication of the case are that, Sohan Singh lost his life in a motor vehicle accident which took place on 05.12.1987 on account of rash and negligent driving of Jeep (offending vehicle) bearing registration No. CHK-3081 by respondent – Amarjit Singh @ Zora Singh. There is no challenge to the said finding of the learned Tribunal.

The learned Tribunal vide impugned award dated 21.01.1989 awarded a sum of ₹51,000/- as compensation to the claimant-wife while assessing income of the deceased to be ₹1,000/- per month after applying deduction of 1/3rd on account of personal expenses. The deceased was held to be 65 years of age, therefore multiplier of six (6) was applied. No compensation was awarded under the conventional heads.

As per the grounds of appeal, it is stated that the deceased was running a hotel earning ₹1,500/- per month. Multiplier of six (6) was wrongly applied. Therefore, compensation to tune of ₹4,00,000/- should be awarded to the claimant.

Learned counsel for respondent – Insurance Company however prays 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.

Heard learned counsel for the Insurance Company and have gone through the grounds of appeal and file of this case.

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 – Amarjit Singh @ Zora Singh. Perusal of the file reveals that the deceased was stated to be running a hotel, earning ₹1,500/- per month. However, there is no evidence on record regarding the running of a hotel by the deceased except the bald statement of the claimant – Raj Kaur. In this situation, the learned Tribunal has rightly assessed the income of the deceased to be ₹1,000/- per month and 1/3rd deduction on account of personal expenses has been correctly applied. However, multiplier of seven (7) is required to be applied instead of six (6) keeping in view of the age of the deceased in view of the **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil)*** *77*.

No amount is to be awarded on account of future prospects keeping in view the observations of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. However, the claimant is entitled to a sum of ₹40,000/- for loss of consortium and ₹15,000/- each for loss of estate and funeral expenses. Appellant-claimant is, thus, entitled to amount of compensation of **₹1,26,000/-**, detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	1000 p.m. i.e. ₹12,000/- per annum
2.	Income after deduction of 1/3rd on account of personal expenses	(12000 - 12000*1/3) = 8000
3.	Dependancy after applying a multiplier of 7	(8000*7) = 56,000
4.	Loss of estate	15,000

5.	Loss of consortium	40,000
6.	Funeral expenses	15,000
	Grand Total	₹1,26,000/-

Needless to say, compensation amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant 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.

Liberty is however afforded to the appellant to move an appropriate application in case of any grievance within three months of receipt of copy of this order.

Copy of this order be conveyed to the claimant at the given address.

(**LISA GILL**)
JUDGE

July 05 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No