**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

204 **FAO-117-2002 (O&M)**
Date of Decision: 08.01.2018.

Dharamjit Kaur and others ....Appellants.

Versus

Gurcharan Singh and others ....Respondents.

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CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mrs. Gurnam Kaur Turka, Advocate for the appellants.

None for respondent No.1.

Mr. Aseem Aggarwal, Advocate for respondent No.3.

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Ramendra Jain, J.(Oral)

Through the instant appeal, the appellants-claimants have prayed for enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') in MACT Case No.50T dated 16.08.2000/99 vide award dated 09.05.2001 on account of death of Ajaib Singh who died on 09.12.1998 due to the injuries sustained by him in a motor vehicular accident which took place on 04.12.1998. It is worth mentioning that appeal against respondent No.2 was dismissed vide order dated 20.02.2015.

Learned counsel for the appellants inter-alia contends that in view of the latest judgement of the Constitutional Bench of the Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and others,***

2017(4) R.C.R. (Civil) 1009, the appellants are entitled to 40% increase on the established income of the deceased Ajaib Singh towards future prospects as at the time of his death, he was aged around 32/33 years. That apart, appellant No.1 is also entitled to Rs.40,000/- towards loss of consortium, Rs.15,000/- for loss of estate and Rs.10,000/- (Rs.15000 – 5000 already awarded by the Tribunal) towards funeral expenses. Further, the dependency of the appellants upon deceased Ajaib Singh has also been wrongly taken by the Tribunal to the extent of 2/3rd instead of 3/4th keeping in view the large number of dependents i.e. six in number as laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.***

On the other hand, learned counsel for respondent No.3-Insurance Company has vehemently opposed the enhancement of compensation.

After giving my thoughtful consideration to the submission made by learned counsel for the parties and considering the dictum laid down by the Constitutional Bench of Hon'ble Supreme Court in **National Insurance Company Limited**'s case (supra), since the age of the deceased was around 32/33 years, when he died due to the injuries sustained by him in the accident in question, there had to be an addition of 40% to the actual income of the deceased on account of future prospects, which learned Tribunal failed to allow. Anyhow, the multiplier of '16' was rightly applied by the Tribunal.

The deceased was survived by widow-Dharamjit Kaur and five minor children-Suman, Rajwant Kaur, Meenu, Gurpreet Singh and Sushma. Therefore, as per law laid down in **Sarla Verma's and others** case (supra), the deduction of $1/4^{th}$ towards personal and living expenses of the deceased should have been made by learned Tribunal instead of $1/3^{rd}$. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income (in Rupees)		Rs.5000/-
2.	Actual age of the deceased		32/33 years
3.	40% increase in future income as per National Insurance Co. Ltd. case (supra)		Rs.2000/-
4.	Annual dependency		$3/4^{th}$ of Rs.7000 x 12 = Rs.63,000/-
5.	Multiplier		16
6.	Total		Rs.10,08,000/-

In addition to the amount of Rs.10,08,000/- calculated towards dependency, the amount of Rs.5,000/- awarded under the head of funeral expenses is enhanced to Rs.15,000/-, whereas the amount of Rs.5000/- awarded as expenditure on medicines and transportation etc. is adequate. Further, an amount of Rs.40,000/- is awarded to appellant No.1 towards loss of consortium. The appellants are also held entitled to compensation of Rs.15,000/- on account of loss of estate. In the above premise, the appellants-claimants are held entitled to compensation of Rs.10,83,000/- as indicated above.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 09.05.2001 passed by the Tribunal is modified. The appellants-claimants are held entitled to enhanced compensation of Rs.4,39,400/- in addition to the amount of Rs.6,43,600/-

already awarded by the Tribunal. The enhanced amount of compensation shall be deposited within 45 days from the date of receipt of certified copy of this judgment, failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of appeal till realization. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(RAMENDRA JAIN)
JUDGE

08.01.2018
jitender sharma

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No