

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 555 of 2003(O&M)

Date of Decision: August 24 , 2018.

Kavita and others APPELLANT (s)

Versus

Ram Singh @ Ramji and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Jitender Dhanda, Advocate
for the appellants.

Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate
for respondent No.2.

Mr. Vipul Sharma, Advocate for
Mr. Paul S.Saini, Advocate
for respondent No.3 – Insurance Company.

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, Sirsa (for short, the 'Tribunal') vide impugned award dated 21.08.2002 on account of death of Shamsher Singh 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 Shamsher Singh, who lost his life in a motor vehicle accident which took place on 26.03.1999. Besides

Shamsher Singh, four other persons, namely, Subhash, Om Parkash, Veer Singh and Fateh Singh also lost their lives in the said accident and Prithvi, Jagdish, Naresh, Ram Kumar and Duni Ram suffered multiple grievous injuries. FIR No.71 dated 26.03.1999 was registered under Sections 279/304A IPC at Police Station Ding against respondent No.1-Ram Singh @ Ramji. 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 truck bearing No. HRJ/3577 by respondent No.1 – Ram Singh @ Ramji. The finding of the learned Tribunal in this respect has attained finality.

The learned Tribunal awarded a sum of ₹3,07,400/- as compensation to the claimants vide impugned award dated 21.08.2002. Claim of appellant No.3-Puran Singh, father of the deceased was dismissed on the ground that there is no evidence to show that he was solely dependant upon the deceased. Income of the deceased was assessed as ₹2,100/- per month. 1/3rd deduction on account of personal expenses was effected. Multiplier of 18 was applied. ₹2,500/- each towards loss of consortium to claimant-wife and towards funeral expenses were awarded. Aggrieved therefrom, the present appeal has been filed by the claimants.

Learned counsel for the appellants does not dispute the income of the deceased to be ₹2,100/- per month as assessed by the learned Tribunal as well as deduction of 1/3rd effected towards personal expenses. It is however submitted that the compensation awarded to the appellants is required to be enhanced in view of the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680,**

while not disputing that multiplier of 17 is to be applied, instead of 18 as the deceased was admittedly 30 years old at the time of accident.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for further enhancement of 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 – Ram Singh @ Ramji. No serious argument has been addressed qua the claim of appellant No.3-Puran Singh. There is no dispute regarding the income of the deceased, which was assessed by the learned Tribunal as ₹2,100/- per month. Deduction of 1/3rd on account of personal expenses has been correctly effected keeping in view the number of dependants in this case. However, increase in income at the rate of 40% on account of future prospects is required to be afforded, as well as ₹40,000/- on account of loss of consortium to the claimant-wife, besides, ₹15,000/- each towards funeral expenses and loss of estate keeping in view the guidelines laid down by the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). As per the observations of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77**, multiplier of 17 is required to be applied instead of 18 as the deceased was 27 years old at the relevant time.

Appellants No.1, 2 and 4 are, thus, entitled to the amount of compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	2100 p.m. i.e. ₹25,200/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	25,200 + (25,200 x 40%) = 35,280
3.	Net income after deduction of 1/3 rd on account of personal expenses	35,280 – (35,280 x 1/3) = 23,520
4.	Total dependancy after applying a multiplier of 17	(23,520 x 17) = 3,99,840
5.	Loss of estate	15,000
6.	Loss of consortium to wife	40,000
7.	Funeral expenses	15,000
Grand Total		₹4,69,840/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants No.1, 2 and 3 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. Ratio of apportionment amongst the said appellants/claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

August 24 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No