*205* ***IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH***

**FAO No.675 of 2001(O&M)**
**Date of decision: 25.10.2018**

**Rama & others .....Appellants.**

**Vs.**

**Maan Chand @ Mam Chand & others .....Respondents.**

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.**

Present: Mr. Aman Sharma, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for LRs of respondent No.3.

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**TEJINDER SINGH DHINDSA, J. (ORAL).**

This is claimants' appeal seeking enhancement of compensation.

Briefly noticed that a claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs. 20 lakhs on account of death of Ramesh Kumar in a Motor Vehicle Accident that took place on 11.09.1996. Claimants were the widow and two minor children of the deceased. It was asserted in the claim petition that Ramesh Kumar (deceased) was proceeding from Pinjore to Manimajra on his scooter and was struck by a commercial vehicle coming from the opposite side which was being driven by its driver in a rash and negligent manner.

The Tribunal vide award dated 27.10.1997 has recorded the finding to the effect that death of Ramesh Kumar occurred on account of injuries suffered by him involving a truck bearing registration No. CHW-6576 which was being driven in a rash and negligent manner by Maan

Chand.

Insofar as compensation amount is concerned, the same has been computed to Rs.5,08,700/- in favour of the claimants. The liability to pay the compensation was held to be joint and several.

It would be apposite to take note that the findings recorded by the Tribunal with regard to rash and negligent driving of the offending truck has not been assailed by the Insurance Company. As such findings have attained finality.

Since the only issue involved in the instant appeal is with regard to quantum of compensation, I have heard learned counsel for the claimants/appellants as also counsel representing the contesting respondent/insurance company.

Deceased was stated to be 30 years of age as on the date of accident. Even the post mortem report (Ex.P-3) reflected the same age. Deceased was stated to be serving as Clerk-cum-Cashier in the Oriental Bank of Commerce at Manimajra and was stated to be earning Rs.5118.80 paisa per month. His monthly earning stood duly proved by the salary certificate adduced on record as (Ex.P-2).

The Tribunal has accepted the age of the deceased as 30 years and has taken the monthly income as Rs. 5118.80 paisa. Deduction @ of 50% from the monthly income towards personal and living expenses has been made. Multiplier of 16 has been applied to the multiplicand. Under conventional heads a total sum of Rs.9,500/- has been awarded i.e. Rs.2,000/- towards funeral expenses, Rs. 5,000/- towards loss of consortium and Rs. 2,500/- towards loss of estate.

In the considered view of this Court, the compensation amount awarded would require to be revisited/reassessed in view of the guidelines/parameters laid by the Apex Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 and National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009.***

There is no dispute between the parties as regards the age of the deceased and also the monthly income of Rs.5118.80 paisa. Deceased was survived by widow and two minor children. Under such circumstances, deduction to the tune of 1/3rd ought to have been made towards living expenses of the deceased by applying the guidelines under **Sarla Verma's case (supra)**. Keeping in view the age of the deceased to be 30 years, multiplier of 17 would apply to the multiplicand as per **Sarla Verma's case (supra)**.

The Tribunal has not awarded any addition in income towards future prospects. Keeping in view the fact that the deceased was a Clerk-cum Cashier serving with Oriental Bank of Commerce, Manimajra and as such was in permanent employment and coupled with the fact that he was 30 years of age, an increase in income towards future prospects @ 50% is awarded as per parameters laid down by the Apex Court in **National Insurance Company Limited Vs**. ***Pranay Sethi and others case (supra).***

That apart the amount of Rs. 9500/- awarded by the Tribunal under conventional heads would now stand enhanced to Rs.70,000/- i.e. Rs. 40,000/- towards loss of consortium, Rs. 15,000/- towards loss of estate and a like amount of Rs.15,000/- towards funeral expenses.

In view of the discusssion made above, the compensation amount is re-assessed and calculated as follows:-

| Sr. No. | Head | Calculation |
|---|---|---|
| 1. | Income Rs.5118.80 P.M i.e. rounded to Rs.5119/-P.M | Rs.5119/- |
| 2. | Addition in income @ 50% towards future prospects | (5119 + 2560 = 7679/-) |
| 3. | 1/3rd deduction towards personal and living expenses of the deceased | Rs.7679-2560=5119/- |
| 4. | Annual Income | (Rs.5119 x 12 = 61428/-) |
| 5. | Compensation after applying multiplier of 17 | 61428 x 17=10,44,276/- |
| 6. | Conventional Heads: loss of estate, loss of consortium and funeral expenses | Rs.70,000/- |
| 7. | Total | Rs.11,14,276/- |

The afore-calculated enhanced compensation amount be released in favour of the claimants/appellants along with interest @ 6% per annum from the date of filing of the instant appeal till actual realization.

Appeal is allowed in the aforesaid terms.

**25.10.2018** **(TEJINDER SINGH DHINDSA)**
*Ali* **JUDGE**

**Whether speaking/reasoned** **Yes/No**
**Whether Reportable** **Yes/No**