IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1451 of 2006(O&M)

Date of Decision: September 06 , 2018.

Kamla and others ...... APPELLANT (s)

Versus

Bikram Singh and another ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Ekta Thakur, Advocate and
Mr. Shobit Phutela, Advocate, Legal Aid counsel
for the appellants.

Ms. Vandana Thakur, Advocate
for respondent No.2 – 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, Chandigarh (for short, the 'Tribunal') vide impugned award dated 11.02.2006 on account of death of Babu Ram 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 Babu Ram, who lost his life in a motor vehicle accident which took place on 14.05.2004. FIR (Ex.P1) was lodged against respondent No.1-Bikram Singh on the statement of PW2 Rattan Singh. 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 Motorcycle bearing registration No.CH-03-H-1805 by respondent No.1 – Bikram Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹8,25,136/- as compensation to the appellants-claimants vide impugned award dated 11.02.2006. Income of the deceased was assessed as ₹9,297/- per month. The deceased was 54 years old at the time of the accident. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 11 was applied. ₹2,000/- towards funeral expenses were awarded, besides, ₹5,000/- on account of loss of consortium to claimant-wife.

Learned counsel for the appellants submits that increase in income at the rate of 15% 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 amount under the conventional heads also needs to be enhanced.

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 – Bikram Singh. The deceased-Babu Ram was working as Electrician in MES Air Force Station, Mullanpur and drawing a salary of ₹9,297/- per month. The deceased was also averred to be earning ₹6,000/- per month from dairy farming. However, there is no evidence on record to prove agricultural/dairy income of ₹6,000/- per month by the deceased except a bald statement of the claimant, PW1 Kamla. In this situation, income of the deceased has been rightly assessed as ₹9,297/- per month by the learned Tribunal. Deduction at the rate of 1/3rd on account of personal expenses has been correctly effected. Multiplier of 11 has been rightly applied as well, as the deceased was 54 years old at the relevant time. Increase in income at the rate of 15% 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). ₹15,000/- each towards funeral expenses and loss of estate are awarded to the appellants, besides, ₹40,000/- to the claimant-wife on account of loss of consortium.

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	9,297 p.m. i.e. ₹1,11,564/- per annum

2.	Total income after addition at the rate of 15% on account of future prospects	1,11,564 + (1,11,564 **x** 15%) = 1,28,299
3.	Income after deduction of 1/3rd on account of personal expenses	1,28,299 – (1,28,299 **x** 1/3) = 85,533
4.	Total dependancy after applying a multiplier of 11	(85,533 **x** 11) = 9,40,863
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of consortium to claimant-wife	40,000
	Grand Total	₹10,10,863/-

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. Ratio of apportionment amongst the appellants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 06 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No