IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1679-2009

Date of decision: 26.04.2018

Gurjit Kaur and others

..... Appellants

Versus

Jaspreet Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Chandan Deep Singh, Advocate for
Mr. Anoop Singh Bajwa, Advocate Amicus Curiae
for the appellants.

Ms. Alka Joshi, Advocate for respondent No. 2-Insurance Co.

RAMENDRA JAIN, J. (ORAL)

1. The claimants have filed the instant appeal for enhancement of compensation by modifying the impugned Award dated 11.12.2008, of the Motor Accident Claims Tribunal, Patiala (for short-'the Tribunal').

2. Briefly stated, deceased-Ram Gopal aged about 52 years, succumbed to his injuries received in a motor vehicular accident occurred on 28.07.2006, after three days in the hospital. Consequently, his widow and three major sons filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation to them for his death against the respondents. The learned Tribunal after holding trail awarded a total sum of ₹6,41,000/- as compensation to them along with interest @ 9% per annum from the date of filing of the claim petition till realization, vide Award impugned herein.

3. Learned counsel for the appellants contends that the learned Tribunal has erred in deducting $1/3^{rd}$ from the monthly income of the

deceased towards personal expenses. The same ought to have been deducted 1/4th, in view of judgment in ***Sarla Verma and others*** ***Vs.*** ***Delhi Transport Corporation and another,*** ***2009 (3) RCR (Civil) 77.***

4. On the other hand, learned counsel for respondent No. 2-Insurance Company, vehemently opposing the aforesaid submissions of learned counsel for the appellants contends that all the appellants except widow (appellant No. 1) of the deceased were major, at the time of death of their father. Therefore, the learned Tribunal ought to have deducted 50% from the income of the deceased towards personal expenses.

5. Having given considerable thoughts to the submissions made by learned counsel for both the sides, this Court finds merit in the instant appeal for the reasons to follow:

6. The learned Tribunal has not awarded anything towards future prospects of the deceased which according to the aforesaid judgment, 15% has to be added to the income of the deceased to calculate just and fair compensation, keeping in view the age of the deceased as 52 years at the time of his death. Nothing has also been awarded towards transportation of the deceased prior to his death for his treatment to various hospitals. The accident took place at Patiala. Initially, the deceased was taken to a local hospital and thereafter, shifted to PGI, Chandigarh. Therefore, a sum of ₹1000/- is awarded towards transportation of the deceased. As far as deduction of 1/3rd towards personal expenses from the income of the deceased is concerned, the same is genuine considering the fact that except widow-appellant No. 1 of the deceased, all other claimants were major at the time of death of their father. They cannot be termed as solely dependent upon him. All the claimant-appellants No. 2 to 4, must be earning

independently for themselves. Therefore, deduction of 1/4th towards personal expenses in view of ***Sarla Verma's case (supra),*** cannot be made considering this aspect of the matter. Besides it, a sum of ₹63,000/- more has to be awarded to the claimant-appellants under conventional heads i.e. loss of estate, loss of consortium, funeral expenses etc., inasmuch as ₹7000/- has already been awarded to them under these heads. According to latest judgment of Hon'ble the Supreme Court in ***National Insurance Company Ltd.*** ***Vs.*** ***Pranay Sethi and others,*** ***2017 (4) RCR (Civil) 1009,*** multiplier of 11 has to be applied to the income of the deceased.

7. In view the above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased	₹9500/- per month
(ii)	15% of above (i) to be added as future prospects	(9500+1425)= ₹10,925/-
(iii)	Deduction of 1/3rd towards personal expenses of the deceased	(10925-3642)=₹7283/-
(iv)	Compensation after multiplier of 11 is applied	(7283x12x11)=₹9,61,356/-
(v)	Compensation under conventional heads i.e. loss of estate, loss of consortium, funeral expenses etc.	₹70,000/- ₹7000/- has already been awarded under this head, therefore, the total comes to (70000-7000)= ₹63,000/-
(vi)	Transportation	₹1000/-
	Total	₹10,25,356/- rounded off to ₹10,25,500/-.

8. As a sequel of my discussion above, the impugned Award dated 11.12.2008 is modified and the compensation is enhanced from ₹6,41,000/- to ₹10,25,500/- (rupees ten lakhs, twenty five thousand, five hundred only).

9. The enhanced amount of compensation payable to claimant-

appellants comes to ₹3,84,500/- i.e. ₹3,85,000 (rounded of) over and above the amount already awarded by the learned Tribunal. Learned counsel for respondent No. 2-Insurance Company has not been able to point any mistake in the above calculation. The enhanced amount of compensation will carry interest @ 9% per annum from the date of filing of claim petition till actual realization. The respondents shall deposit the aforesaid enhanced amount of compensation with the learned Tribunal, along with up-to-date interest within two weeks from today for onward disbursement to claimant-appellants, against proper receipt and identification, in accordance with law.

10. The instant appeal stands disposed of, accordingly.

April 26, 2018 **(RAMENDRA JAIN)**
rishu **JUDGE**

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