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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2103 of 2009
Date of Decision: 17.07.2018.

Smt. Reena and others

......Appellants

Vs

Mukesh Saini and others

....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. N.D. Achint, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.3

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RAJ MOHAN SINGH, J. (Oral)

[1]. This appeal has been preferred by the claimants for enhancement of compensation against the award dated 27.11.2008 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter to be referred as 'the Tribunal').

[2]. The accident in question took place on 08.02.2006 in which Rakesh Kumar husband of appellant No.1 was died. Other claimants are children and parents of the deceased. Composition of the family is of five members.

[3]. The Tribunal held the accident in question took place

due to rash and negligent driving by driver of the offending vehicle. The Tribunal after assessing the material on record awarded an amount of Rs.5,54,000/- as compensation.

[4]. I have heard the submissions made by learned counsel for the parties.

[5]. Deceased was auto driver. The Tribunal assessed the monthly income of the deceased to be Rs.4,000/- per month, which in considered opinion of this Court is just and appropriate. The deceased Rakesh Kumar was 24 years of age at the time of accident, therefore, increase on account of future prospects to the tune of 40% in view of ***National Insurance Co. Limited vs. Pranay Sethi, 2017 SCC 1270*** is to be added to the monthly income of the deceased. In this way the monthly income of the deceased would come out to be Rs.5600/- per month i.e. Rs.67,200/- per annum.

[6]. In view of composition of family of the deceased, deduction to the tune of 1/4th can be applied towards personal expenses of the deceased to the annual income. In this manner, the annual dependency would come out to be Rs.50,400/- (67,200-16,800)

[7]. The deceased was aged about 24 years at the time of accident. The Tribunal has applied multiplier of 17, however in

view of ratio laid down in ***<u>Sarla Verma vs. Delhi Transportation Corporation, 2009 ACJ 1298 (SC)</u>*** on the basis of age of the deceased, multiplier of 18 is to be applied. In this way assessment towards dependency comes out to be Rs.9,07,200/- (50,400 x 18). An Additional amount of Rs.70,000/- can be assessed towards loss of estate, loss of consortium and funeral expenses in view of ***<u>National Insurance Co. Limited vs. Pranay Sethi,'s</u>*** case (supra). In this way, total amount of compensation comes out to be Rs.9,77,200/- (9,07,200 + 70,000).

[8]. The enhanced amount i.e. Rs.4,23,200/- (9,77,200 – 5,54,000) would carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount. The liability to pay the amount of enhanced compensation shall remain same as ordered by the Tribunal.

[9]. In view of aforesaid modification, the appeal is accordingly disposed of.

July 17, 2018 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No