IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2609 of 2010
Date of Decision: 23.01.2018

Savita and others

....Appellants.

Versus

Munna Lal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. R.S. Mamli, Advocate, for the appellants.

Ms. Vandana Malhotra, Advocate, for respondent No. 3/
Insurance Company.

RAMENDRA JAIN, J. (ORAL)

Through the instant appeal, the claimants have prayed for enhancement of compensation from ₹ 12,97,125/- to ₹ 19,46,856/- urging that the learned Tribunal has not granted any relief to them towards future prospects of the deceased which ought to have been granted by adding 50% to the annual income of the deceased and that further ₹ 30,000/- is more to be enhanced towards funeral expenses, loss of estate and consortium over and above ₹ 40,000/- already granted by the Tribunal.

Learned counsel for the Insurance Company could not refute the aforesaid submissions of the learned counsel for the appellants in view of the settled proposition of law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi and others***, *2017(4) RCR (Civil) 1009*.

Having given thoughtful consideration to the submissions made by both the parties and going through the impugned award, I find merit in the submissions made by learned counsel for the appellants for the reasons to follow.

The Tribunal has taken the monthly salary of the deceased @ ₹ 13,228/- on the basis of salary certificate produced by the appellants which annually comes to ₹ 1,57,863/- after deduction of ₹ 873/- towards income tax.

Fifty per cent to the aforesaid income taken by the Tribunal was required to be added towards future prospects in view of the judgment of the Hon'ble Supreme Court in ***Pranay Sethi and others*** (supra) considering the age of the deceased as 33 years at the time of his death.

Since, age of the deceased at the time of accident was 33 years, therefore, the Tribunal has rightly applied the multiplier of 16 and cut of 1/3rd to the same towards his personal expenses. After deducting 1/3rd towards personal expenses of the deceased and applying the multiplier of 16 the total dependency of the appellants upon deceased comes to ₹ 25,25,808/-.

That apart, the appellants are also entitled for enhancement of ₹ 30,000/- more towards loss of estate, consortium and funeral expenses of the deceased, in view of the aforesaid judgment of the Hon'ble Apex Court upon ₹ 40,000/- already awarded by the Tribunal under the aforesaid heads. The total amount payable comes to ₹ 25,55,808/-.

According to the Tribunal, the deceased has contributed to the negligence to the extent of 25%. Learned counsel for the appellants could not point out any infirmity in the said finding of the learned Tribunal.

Therefore, 75% of the above compensation comes to ₹ 19,46,856/-.

In view of the above, the impugned award is enhanced from ₹ 12,97,125/- to ₹ 19,46,856/- which shall be payable to the appellants in proportion as held by the Tribunal from the date of filing of the claim petition till realization along with interest @ 7.5 % per annum less the amount already paid, if any, to the appellants.

Petition is disposed of accordingly.

(RAMENDRA JAIN)
JUDGE

January 23, 2018
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Whether speaking/reasoned Yes/No
Whether Reportable Yes/No