IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 527 of 2011(O&M)

Date of Decision: October 12 , 2018.

Smt. Asii and others ...... APPELLANT (s)

Versus

Rajender Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashok Tyagi, Advocate
for the appellants.

Mr. R.C.Kapoor, Advocate
for respondent No.3 – 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, Palwal (for short, the 'Tribunal') vide impugned award dated 24.07.2010 on account of death of Javed 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 Javed, who lost his life in a motor vehicle accident which took place on 08.01.2004. FIR No.18

dated 08.01.2004 was lodged against respondent No.1 on the statement of PW1 Harun. 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 jeep bearing registration No. HR-21-5045 by respondent No.1 – Rajender Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹4,37,000/- as compensation to the appellants-claimants vide impugned award dated 24.07.2010. Father of the deceased was not held entitled to compensation. Income of the deceased was assessed as ₹3,000/- per month. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 18 was applied. ₹5,000/- towards funeral expenses were awarded.

Learned counsel for the appellants submits that future prospects at the rate of 40% should be awarded as per the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***, though it is candidly stated that deduction at the rate of 50% instead of 1/3rd may be effected. It is submitted that amount under the conventional heads be awarded in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. It is thus prayed that the compensation amount be re-worked accordingly.

Learned counsel for respondent No.3 – Insurance Company however prays for upholding the impugned award dated 24.04.2014 as there is no ground for any enhancement of the compensation.

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 – Rajender Singh. There is no dispute regarding the income of the deceased as assessed by the learned Tribunal i.e., ₹3,000/- or his age i.e., 18 years at the time of the accident. Increase in income at the rate of 40% on account of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). Deduction to the extent of 50% on account of personal expenses needs to be effected. The deceased was 18 years old at the time of the accident, therefore, multiplier of 18 has been rightly applied. ₹15,000/- each towards funeral expenses (instead of ₹5,000/-) and loss of estate are awarded to the appellants. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**, appellants (appellant No.1 being mother and appellants No.2 to 6 being minor siblings of the deceased) are entitled to loss of consortium at the rate of ₹40,000/- each.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	3,000 p.m. i.e. ₹36,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	36,000 + (36,000 **x** 40%) = 50,400
3.	Income after 50% deduction on account of personal expenses	50,400 – (50,400 **x** 1/2) = 25,200

4.	Total dependancy after applying a multiplier of 18	(25,200 **x** 18) = 8,19,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	(40,000 **x** 6) = 2,40,000
	Grand Total	₹7,23,600/-

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 well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

October 12 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No