IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 4984 of 2012(O&M)

Date of Decision: August 16 , 2018.

Lakhwinder Kaur and others ...... APPELLANT (s)

Versus

Suresh Kumar and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.S.Chauhan, Advocate
for the appellants.

Mr. Banni Thomas, 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, Gurdaspur (for short, the 'Tribunal') vide impugned award dated 11.04.2012 on account of death of Man Singh 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 Man Singh, who lost his life in a motor vehicle accident which took place on 22.06.2008. FIR No.53/2008, Police Station Division No.2, Pathankot was registered under Sections 279/304A IPC against respondent No.1-Suresh Kumar. 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 truck bearing No.JK-02-AQ-7581 by respondent No.1 – Suresh Kumar. There is no challenge to the finding of the learned Tribunal in this respect and the same has attained finality.

The learned Tribunal awarded a sum of ₹3,23,000/- as compensation to the claimants vide impugned award dated 11.04.2012. Income of the deceased was assessed as ₹3,500/- per month. 1/3rd deduction on account of personal expenses was effected. Multiplier of 11 was applied. ₹5,000/- towards loss of consortium to claimant-wife and ₹5,000/- each towards funeral expenses and loss of estate were awarded. Aggrieved therefrom, the present appeal has been filed by the claimants.

Learned counsel for the appellants while not disputing the income of the deceased to be ₹3,500/- per month as assessed by the learned Tribunal as well as deduction of 1/3rd effected towards personal expenses, submits that the increase in income on account of loss of future prospects should have been afforded keeping 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***. Multiplier of 13 should be applied instead of 11 as the deceased was admittedly 50 years old at the time of accident. It is further submitted that a meagre amount has been awarded under the conventional heads. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for further 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 – Subash Singh. There is further no dispute regarding the income of the deceased, which has been assessed as ₹3,500/- per month. Deduction of 1/3rd on account of personal expenses has been correctly effected keeping in view that the number of dependants in this case. However, increase in income at the rate of 25% on account of loss of future prospects is required to be afforded and ₹40,000/- on account of loss of consortium to the claimant-wife and ₹15,000/- each towards funeral expenses and loss of estate is to be awarded as well, keeping in view the guidelines laid down by the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). As per the observations of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil) 77*** multiplier of 13 is required to be applied instead of 11 as the deceased was 50 years old at the relevant time.

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	3500 p.m. i.e. ₹42,000/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	42,000 + (42,000 **x** 25%) = 52,500
3.	Net income after deduction of 1/3rd on account of personal expenses	52,500 – (52,500 **x** 1/3) = 35,000
4.	Total dependancy after applying a multiplier of 13	(35,000 **x** 13) = 4,55,000
5.	Loss of estate	15,000
6.	Loss of consortium to wife	40,000
7.	Funeral expenses	15,000
	Grand Total	₹5,25,000/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants 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 claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

August 16 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No