**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**F.A.O. No.10340 of 2014(O&M)**

**Date of Decision: 10.07.2018**

Naresh and others ......Appellants.

Versus

Sanjay and others ...... Respondents.

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr.Ajit Sihag, Advocate
for the appellants.

Mr. Bhupender Ghanghas, Advocate
for respondents no.1 and 2.

Mr. Sanjeev Kodan, Advocate
for respondent no.3.

Mr. Arun Luthra, Advocate
for respondent no.4.

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**LISA GILL, J.**

This appeal has been filed by the appellants-claimants seeking enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Bhiwani (for short 'MACT'), vide award dated 05.04.2014.

Petition under Section 166 of the Motor Vehicles Act, 1988, was filed by the appellants-claimants claiming compensation on account of death of Sadhu Ram.

As per averments in the claim petition, Sadhu Ram i.e. husband of appellant no.1 and father of appellants no.2 and 3 (minor children) died in a motor vehicle accident which took place on 27.05.2012 due to rash and negligent driving of a Dumper bearing registration No. HR-39-B-7319 by its driver namely Sanjay-respondent no.1. FIR No. 150 dated 27.05.2012 (Ex.P-1) was registered in this respect.

Learned tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Sanjay. The said finding has attained finality.

The learned tribunal awarded a total sum of ₹3,22,500/- to the claimants. Income of the deceased was assessed as ₹5000/- per month. Deduction of 1/4th was effected and a multiplier of 15 was applied. ₹5000/- was awarded on account of loss of estate and ₹25,000/- for funeral expenses.

Learned counsel for the appellants submits that the calculations have been incorrectly made by the learned tribunal. Even, if, income of the deceased is taken to be ₹5000/- per month and the calculations are made after addition of 30% with a deduction of 1/4th and a multiplier of 15 is applied, the total amount is more than ₹2,92,500/-. Moreover, a meagre sum of ₹30,000/- has been awarded under the conventional heads. It is further argued that in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, loss of future prospects at the rate of 40% are required to be awarded. It is, thus, prayed that compensation awarded to the appellants be enhanced.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Learned counsel for the appellants is unable to point out any evidence on record to indicate that the deceased was earning any amount higher than ₹5,000/- as has been assessed by the learned tribunal. Thus income of the deceased has been rightly assessed as ₹5000/- per month.

Learned counsel for the insurance company while praying for upholding the impugned award dated 05.04.2014, is unable to deny that the calculations by the learned Tribunal are inaccurate and an error has crept in. It is not in dispute that the deceased was 40 years old at the time of accident. Therefore, an addition of 25% instead of 30% is to be afforded on account of future prospects keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi** (supra).

As per decision of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009(3) R.C.R (Civil) 77,** 1/3rd deduction on account of personal expenses is to be applied instead of 1/4th keeping in view the number of dependants i.e. three.

Keeping in view the parameters referred to hereinbefore and in view of the decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra) as well as **Smt. Sarla Verma** (supra), compensation towards the claimants on account of death of Sadhu Ram is re-worked as under:-

| | | |
|---|---|---|
| 1. | Annual Income(₹5000/-x12) | ₹60,000/- |
| 2. | Increase of 25% in income on account of future prospects (₹60,000/-+₹15,000/-) | ₹75,000/- |
| 3. | Deduction of 1/3rd on account of personal expenses (₹75,000/- - ₹25,000/-) | ₹50,000/- |
| 4. | Annual dependency after applying multiplier of 15 (₹50,000/-x15) | ₹7,50,000/- |
| 5. | Loss of estate | ₹15,000/- |
| 6. | Loss of consortium claimant wife | ₹40,000/- |
| 7. | Funeral expenses | ₹15,000/- |
| | **Total compensation =** | **₹8,20,000/-** |

The amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per cent per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

**[LISA GILL]**
**Judge**

**10.07.2018**
**s.khan**

Whether speaking/reasoned : Yes/No.

**Whether reportable : Yes/No.**