IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 3251 of 2013(O&M)

Date of Decision: August 01 , 2018.

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

Versus

Ram Lubhaya and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate
for the appellants.

Mr. Arun Sharma, Advocate
for respondent No.3 – Insurance Company.

*****

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?

*****

LISA GILL, J.

Learned counsel appearing for the appellants and respondent No.3 –Insurance Company are ad idem that there is no dispute regarding liability of the Insurance Company in this case, therefore, service upon respondents No.1 and 2 be dispensed with. Ordered accordingly.

This is an appeal preferred by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Karnal (for short, the 'Tribunal') vide impugned award dated 01.02.2013 on account of death of Paramjit Singh in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants/appellants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Paramjit Singh, who lost his life in a motor vehicle accident which took place on 23.08.2010 due to the rash and negligent driving of the offending truck bearing registration No. HR-58-2044 by respondent No.1 – Ram Lubhaya. FIR No.273 dated 23.08.2010 under Sections 279/304A IPC was registered against the driver of the truck at Police Station Indri, District Karnal. The finding of the learned Tribunal on this issue has attained finality.

The learned Tribunal awarded a sum of ₹7,76,100/- as compensation to the claimants vide impugned award dated 01.02.2013. While holding the deceased to be a skilled labourer, the learned Tribunal has assessed his income to be ₹6,500/- per month. While calculating the amount of compensation by the learned Tribunal, deduction of $1/4^{th}$ on account of personal expenses was effected keeping in view the number of dependants i.e., five and multiplier of 13 was applied.

Learned counsel for the claimants/appellants while not assailing the income of the deceased as assessed as well as the application of multiplier of 13 and deduction at the rate of $1/4^{th}$ effected by the learned Tribunal, submits that no amount has been awarded to the claimants on account of loss of future prospects in view of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. It is further submitted that nothing has been awarded towards loss of consortium as well as loss of estate and funeral expenses. It is thus prayed that the amount of compensation awarded to the claimants/appellants be enhanced accordingly.

Learned counsel for respondent No.3 – Insurance company submitted that the impugned award does not call for further enhancement of the compensation as 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 of this case.

It is not in dispute that the deceased was 46 years old at the time of the accident. Income of the deceased i.e., ₹6,500/- per month as assessed by the learned Tribunal is not in dispute either. However, increase in the income of the deceased at the rate of 25% on account of loss of future prospects has to be afforded and amount under the conventional heads 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). Deduction of 1/4th has been correctly effected in this case keeping in view that the number of dependants are four and multiplier of 13 has also been correctly applied as per the decision of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil) 77***. Appellants-claimants are, thus, entitled to amount of compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6500 p.m. i.e. ₹78,000/- per annum

2.	Total income after addition at the rate of 25% on account of future prospects	78,000 + (78,000 **x** 25%) = 97,500
3.	Income after deduction of 1/4th on account of personal expenses	97,500 – (97,500 **x** 1/4) = 73,125
4.	Total dependancy after applying a multiplier of 13	(73,125 **x** 13) = 9,50,625
5.	Loss of estate	15,000
6.	Loss of consortium to claimant-wife	40,000
7.	Funeral expenses	15,000
	Grand Total	₹10,20,625/-

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 01 , 2018.
'om'

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No