IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1733 of 2014(O&M)

Date of Decision: September 06 , 2018.

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

Versus

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

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Mr. Ram Avtar, 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.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Chandigarh (for short, the 'Tribunal') vide impugned award dated 03.09.2013 on account of death of Davinder 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 Davinder Singh, who lost his life in a motor vehicle accident which took place on 09.06.2011. FIR

(Ex.P1) was lodged against respondent No.1-Inderjit Singh on the statement of an eye-witness, Jaswinder Singh (PW1). 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 Tata Ace truck bearing registration No. PB-12-K-5922 by respondent No.1 – Inderjit Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹27,57,212/- as compensation to the appellants-claimants vide impugned award dated 03.09.2013. The deceased was aged 56 years at the time of the accident and his income was assessed as ₹39,034/- per month. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 9 was applied. ₹25,000/- towards funeral expenses and ₹1,00,000/- on account of loss of consortium were awarded.

Learned counsel for the appellants submits that increase in income at the rate of 15% on account of future prospects 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*** has not been afforded, though it is conceded that in terms of the said judgment, compensation awarded towards loss of consortium i.e., ₹1,00,000/- and ₹25,000/- towards funeral expenses is required to be reduced to ₹40,000/- and ₹15,000/-, respectively.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for any enhancement of the compensation as the same is reasonable and justified in the facts and circumstances of the case. It is submitted that once a multiplier of 9 has been afforded, therefore, future prospects at the rate of 15% should not be afforded. Furthermore, principle of split multiplier should have been resorted to in this case. It is however admitted that no appeal has been preferred by the Insurance company in this case.

I have heard learned counsel for the parties and have gone through the file.

The present appeal has been filed by the claimant-widow and the children of the deceased, Gurdial Singh. The parents were also the claimants in the petition filed under Section 166 of the Act. Claimant-Gurdial Singh, father of the deceased-Davinder Singh has passed away. His legal heirs are on record.

Learned counsel for the Insurance company informs that claimant/respondent No.4-Shanti Devi has also since passed away. Legal heirs of Shanti Devi and Gurdial Singh are reflected as proforma respondents No.4 to 8 in the Memo of Parties. Their service was dispensed with vide order dated 02.05.2018.

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 – Inderjit Singh. Annual income of the deceased after deducting income tax i.e., ₹4,38,702/- as assessed by the learned Tribunal has not been disputed. Deduction at the rate of $1/3^{rd}$ on account of personal expenses has been rightly effected. Multiplier of 9 has been correctly applied as the deceased was 56 years old at the relevant time. However, increase in income at the rate of 15% on account of loss of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra).

₹15,000/- (instead of ₹25,000/-) towards funeral expenses are awarded, besides, ₹40,000/- (instead of ₹1,00,000/-) on account of loss of consortium.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income per annum	4,38,702
2.	Total income after addition at the rate of 15% on account of future prospects	4,38,702 + (4,38,702 **x** 15%) = 5,04,507
3.	Income after deduction of 1/3rd on account of personal expenses	5,04,507 – (5,04,507 **x** 1/3) = 3,36,338
4.	Total dependancy after applying a multiplier of 9	(3,36,338 **x** 9) = 30,27,042
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of consortium	40,000
	Grand Total	₹30,97,042/-

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 determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 06 , 2018.
'om'

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No