IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on: 02.07.2018

1. FAO No. 1094 of 2015

Manju Bala and others ....Appellants

versus

Kamaljit Singh and others .....Respondents

2. FAO No. 5114 of 2014

United India Insurance Co. Ltd. ....Appellant

versus

Manju Bala and others ......Respondents

Coram: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Paul S. Saini, Advocate with
Mr. Vipul Sharma, Advocate
for Insurance Company-United India Insurance Company Ltd.

Mr. Ankur Gupta, Advocate
for the appellants in FAO No. 1094 of 2015.
for respondents No. 1 to 3 in FAO No. 5114 of 2014.

Mr. Sandeep Sharma, Advocate
for respondent No. 4.

Mr. Davinder Kumar, Advocate for
Mr. Pankaj Bali, Advocate
for respondent No. 6.
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Lisa Gill, J.(Oral)

This order shall dispose of FAO No. 5114 of 2014, filed by United India Insurance Company challenging the award dated 16.05.2014 and FAO No. 1094 of 2015 which has been preferred by the claimants-appellants seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Ludhiana, vide the same impugned award dated 16.05.2014.

There is no dispute that on 21.12.2012, deceased-Kamlesh Kant son of claimants Manju Bala and Ashwani Kumar met with an accident while proceeding on his motorcycle from Samrala to Khanna. He was being followed by his father on a separate vehicle. The accident was caused due to rash and negligent driving of the offending vehicle by Kamaljit Singh, respondent No. 4.

Claim petition under Section 166 of Motor Vehicles Act was filed by the parents and a sister of the deceased. Learned Tribunal vide the impugned award dated 16.05.2014 held that the accident in question was indeed caused due to rash and negligent driving of the offending vehicle by respondent-Kamaljit Singh. Income of the deceased was assessed @ ₹1,62,500/- per annum on the basis of income tax returns proved on record. There is no dispute regarding income of the deceased or the age of the deceased to be 24 years at the time of accident. 50% of the income assessed was held liable to be added on account of loss of future prospects. Accordingly, ₹81,250/- was added on account of loss of future prospects and his income was assessed @ ₹2,43,750/- per annum. Deduction of one half was made on account of personal and living expenses of the deceased and as such his contribution to the family was assessed @ ₹1,21,875/- per annum. Applying the multiplier of 15, loss of dependency was calculated @ ₹18,28,125/-. ₹14,232/- was awarded on account of medical expenses as per bills produced on record. A sum of ₹25,000/- was awarded on account of loss of love and affection and ₹25,000/- as funeral expenses. Appellant/claimant was awarded interest at the rate of 9% per annum on the compensation amount from the date of filing of petition.

Feeling aggrieved both the Insurance Company as well as claimants have filed appeals. Learned counsel for the Insurance Company seeks a reduction in the compensation awarded whereas the claimants seek enhancement of the same.

Learned counsel for the Insurance Company argues that in view of the judgment of the Hon'ble Supreme Court in the case of ***National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) RCR Civil 1009***; compensation on account of loss of future prospects should be @ 40% and not 50% as awarded. Even under the conventional Heads, higher compensation has been awarded, therefore, the same should be reduced.

Per contra, learned counsel for the claimants, while not disputing the above, submits that multiplier of 18 instead of 15 should have been applied as multiplier should be applied with reference to the age of the deceased and not the age of the claimants as has been done by the Tribunal. It is submitted that the claimants have no objections to the reworking of the compensation towards the claimants in terms of the guidelines laid down by the Hon'ble Supreme Court in ***Pranay Sethi's case (Supra).***

I have heard the learned counsel for the parties and have gone through the record of the file with their able assistance. There is no dispute that the deceased was 24 years old at the time of accident. Income tax returns of the deceased for the assessment year 2009-10, 2010-11 & 2011-12 have been proved on record as Exhibits P-2, P-3 & P-4, respectively. As per the laid income tax returns income of the deceased has been rightly assessed as ₹1,62,500/- per annum. In view of the guidelines said down by the Hon'ble Supreme Court in ***Pranay Sethi's case (Supra),*** an increase of 40% on account of loss of future prospects has to be afforded i.e. ₹65,000/-per annum. As the deceased was unmarried, deduction of 50% is applied, taking his income as ₹1,13,750/-. It has been held by the Hon'ble Supreme Court in ***Munna lal Jain Versus Vipin Kumar Sharma, (2015)6 SCC 347;*** that multiplier has to be applied with reference to the age of the deceased and not the claimants. Accordingly, the multiplier of 18 is to be applied in this case. Dependency is, thus, worked out as ₹20,47,500/-. The claimants are entitled to the sum of ₹ 15,000/- each on account of loss of estate and funeral expenses. Award of ₹14,232/- i.e. medical expenses is maintained. The claimants are thus, entitled to compensation as under:-

1	Income	₹1,62,500/-
2	40% increase on account of future prospects	(₹1,62,500+₹65000) = ₹ 2,27,500/-
3	Deduction of 50% towards personal expenses	₹1,13,750/-
4	Multiplier applied	18
5	Total dependency	₹113750 x 12 x 18 = ₹ 20,47,500/
6	Loss of Estate	₹ 15,000/-
7	Loss of Funeral Expenses	₹ 15,000/-
8	Medical Expenses	₹14,232/-
	Total	**₹20,91,732/-**

The appellants are, thus, held entitled the compensation of ₹20,91,732/- instead of ₹18,93,000/- along with interest @ 7.5% from the date of filing of the petition till realization.

Needless to say that the amount already awarded shall be deducted from the said amount. With the said modification in the compensation awarded in FAO No. 1094 of 2015 filed by the claimants is disposed of. FAO No. 5114 of 2014 filed by United India Insurance Company Limited is dismissed.

2nd July, 2018 **[LISA GILL]**
shabha **JUDGE**

Whether speaking/reasoned - Yes
Whether reportable - Yes/No