IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 2088 of 2015(O&M)

Date of Decision: August 16 , 2018.

Paras Ram and another ...... APPELLANT (s)

Versus

Vijender and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjeev Kumar Panwar, Advocate for the appellants.

Ms. Alka Joshi, 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, Palwal (for short, the 'Tribunal') vide impugned award dated 05.11.2014 on account of death of Rakesh in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants, who are parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Rakesh, who lost his life in a motor vehicle accident which took place on 27.06.2013. FIR No.284 dated 27.06.2013, under Sections 337/279/ 304A IPC, Police Station Sadar Palwal was registered against respondent No.1-Vijender. 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 Scorpio vehicle bearing registration No.DL-3CAS-0175 by respondent No.1 – Vijender. 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 total sum of ₹3,75,900/- as compensation to the claimants vide impugned award dated 05.11.2014. Income of the deceased was assessed as ₹4,500/- per month. Increase in income at the rate of 30% was afforded on account of loss of future prospects. Deduction of 50% on account of personal expenses was effected. Multiplier of 9 was applied. ₹10,000/- on account of funeral expenses and ₹50,000/- towards loss of love and affection were awarded.

Learned counsel for the appellants submits that the income of the deceased has been wrongly assessed as ₹4,500/- per month whereas, minimum wages of an unskilled labourer at the time of the accident in question were ₹5,341/- per month. It is further submitted multiplier of 9 was applied keeping in view the age of appellant No.1, whereas multiplier of 18 should have been applied in reference to the age of the deceased as the decision of the Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma**, ***(2015) 6 SCC 347***. It is further submitted that 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***, increase in income at the rate of 40%

(instead of 30%) on account of loss of future prospects is required to be afforded. 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 – Vijender. It is to be noticed, at this stage, that even if the deceased is taken to be an unskilled labourer, minimum wages prescribed in the State of Haryana at the relevant time were ₹5,341/- per month. In this situation, income of the deceased-Rakesh is assessed as ₹5,341/- per month. Deduction at the rate of 50% on account of personal expenses has been correctly effected. However, increase in income at the rate of 40% on account of loss of future prospects is required to be afforded 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). Learned counsel for the appellants however does not deny that the claimants are entitled to ₹30,000/- only under the conventional heads towards funeral expenses and loss of estate.

The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (*2015) 6 SCC 347*** has specifically held that the multiplier is to be applied with reference to the age of the deceased. As per the post-mortem report (Ex.P2), the deceased was 21 years old at the time of the accident. Therefore, multiplier of 18 is required to be applied instead of 9.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	5341 p.m. i.e. ₹64,092/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	64,092 + (64,092 **x** 40%) = 89,729
3.	Net income after 50% deduction on account of personal expenses	52,500 – (52,500 **x** 1/2) = 44,865
4.	Total dependancy after applying a multiplier of 18	(44,865 **x** 18) = 8,07,570
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
	Grand Total	₹8,37,570/-

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