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

FAO No. 1260 of 2016 (O&M)
Date of Decision: 11.10.2018

Leela Wati and others

.....Appellants

Versus

Darshan Singh and others

........Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vishal Goel, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3-Insurance Company.

DEEPAK SIBAL, J. (ORAL)

The present appeal is at the behest of the claimants through which they seek enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Patiala (for short, the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 22.07.2014 the deceased Sewa Ram alias Sewa Lal along with two other persons was standing in between two trucks on the GT road at Ludhiana when another truck bearing registration No.PB-10U/9433 (for short, the offending vehicle) hit one of the trucks as a result of which an accident was caused resulting in the death of the aforesaid Sewa Ram alias Sewa Lal. The appellants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 before the Tribunal seeking compensation under several heads. On being put to notice, the respondent/Insurance Company appeared before the Tribunal and filed its reply rebutting the claim set up by the appellants. The Tribunal after recording a finding that the offending vehicle was being driven in a rash and negligent manner, assessed the payable compensation. The income of the deceased was assessed @ ₹4,500/- per month to which a deduction of 1/3rd was made towards his personal expenses and after holding his age to be 40 years, a multiplier of 15 was applied. In addition thereto, a lump sum of ₹1 Lakh towards "loss of consortium" to his widow and a sum of ₹1 Lakh to his minor children was granted towards loss of "love and affection". An amount of ₹10,000/- was also awarded towards "funeral expenses".

Learned counsel for the appellants submitted that since there were five dependants of the deceased, a deduction of only 1/4th from the income of the deceased should have been made towards his personal expenses and not 1/3rd. It is further submitted that since the deceased was 40 years of age, the appellants would also be entitled to future prospects @ 40% on the assessed income of the deceased.

Learned counsel for respondent No.3-Insurance Company fairly admits that in the facts of the present case a deduction of 1/4th was required to be made from the income of the deceased towards his personal expenses and that the claimants/appellants would also be entitled to future prospects on the assessed income of the deceased. However, it is submitted that since the deceased was 40 years of age, future prospects @ 25% and not 40% are required to be granted. It is still further submitted that the appellants are not entitled to an accumulated sum of ₹2,10,000/- towards "loss of consortium", "loss of love and affection" and "funeral expenses" as such amount is against the law laid down by the Hon'ble Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680. According to him, under these heads, the appellants would only be entitled to ₹70,000/-.

In view of the consensus arrived at between the parties as also the law laid down by the Hon'ble Supreme Court in Sarla Verma vs. Delhi

Transport Corporation and another (2009) 6 SCC 121, I have no hesitation to modify the impugned award of the Tribunal to the extent that instead of a deduction of 1/3rd to the income of the deceased towards his personal expenses, a deduction of 1/4th be made. So far as future prospects are concerned, as per the law laid down by Hon'ble the Supreme Court in **Pranay Sethi's case (supra),** since the deceased was 40 years of age and not less than 40 years, the appellants are held entitled to future prospects @ 25% on the assessed income of the deceased and towards "loss of consortium", "loss of love and affection" and "funeral expenses", the appellants are entitled to an accumulated sum of ₹70,000/- instead of ₹2,10,000/-.

On the enhanced compensation, the appellants are also held entitled to interest @ 6.5% per annum from the date of filing of the claim petition till its realization.

The present appeal is disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

11.10.2018
sandeep

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No