IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 409 of 2014(O&M)

Date of Decision: November 15 , 2018.

Bala Devi and another ...... APPELLANT (s)

Versus

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

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gaurav Sethi, Advocate
for the appellants.

Mr. Sanjiv Pabbi, Advocate
for respondent No.3.

Mr. Hirdeyjeet Singh, Advocate for
Mr. Gagandeep Singh, Advocate
for respondent No.5.

Mr. D.K.Dogra, Advocate
for respondent No.6.

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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, Ambala (for short, the 'Tribunal') vide impugned award dated 03.10.2013 on account of death of Ashok Kumar 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 their son Ashok Kumar, who lost his life in a motor vehicle accident which took place on 16.09.2011. FIR No.312 dated 16.09.2011, under Sections 279/337/304A IPC, Police Station Baldev Nagar was registered against respondent No.1, driver of the offending vehicle. 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 truck bearing registration No. HR-38K-8582 by respondent No.1-Surjeet Singh. 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 ₹4,40,000/- as compensation to the claimants vide impugned award dated 03.10.2013. Income of the deceased was assessed as ₹5,000/- per month. Deduction of 50% on account of personal expenses was effected. Multiplier of 14 was applied. ₹20,000/- on account of transportation and funeral expenses was awarded.

Learned counsel for the appellants submits that increment on account of future prospects has not been granted. He further submits that multiplier of 14 has been wrongly applied and meagre amount has been awarded under the conventional heads. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for the respondents 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.

The deceased, who was 24 years old at the time of the accident, is averred to be a carpenter contractor, earning ₹12,000/- per month. Except a bald statement of PW2 Bala Devi (appellant No.1), there is no evidence on record to indicate that deceased-Ashok Kumar was earning an income higher than ₹5,000/- per month as has been assessed by the learned Tribunal. Deduction at the rate of 50% on account of personal expenses has been correctly effected. Increase in income at the rate of 40% on account of loss of future prospects is required to be afforded keeping in view the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. 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. The deceased was admittedly 24 years old at the time of the accident. Therefore, multiplier of 18 is required to be applied instead of 14. Instead of ₹20,000/- awarded by the learned Tribunal on account of transportation and funeral expenses, the claimants are entitled to ₹15,000/- each towards funeral expenses and loss of estate. A sum of ₹40,000/- each on account of loss of filial consortium is awarded in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	5000 p.m. i.e. ₹60,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	60,000 + (60,000 **x** 40%) = 84,000
3.	Net income after 50% deduction on account of personal expenses	84,000 – (84,000 **x** 1/2) = 42,000
4.	Total dependancy after applying a multiplier of 18	(42,000 **x** 18) = 7,56,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000 x 2 = 80,000
	Grand Total	₹8,66,000/-

Finding of the learned Tribunal regarding discharge of the liability by respondent No.3 – Oriental Insurance Company Ltd. is upheld.

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

November 15 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No