

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

F.A.O. No. 2637 of 2015 (O&M)

Date of Decision: 27.07.2018

Sudha and others

.....Appellants.

Versus

Bhisham Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Neeraj Khanna, Advocate
for the appellants.

Mr. Navin Kapur, Advocate
for respondent no.3.

LISA GILL, J.

Appellants-claimants, seek enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Panchkula (for short 'MACT'), vide impugned award dated 18.04.2014 on account of death of Arun Kumar.

As per averments in the claim petition, Arun Kumar i.e. husband of appellant no.1, father of appellants no.2 and 3 (minor children) and son of respondent no.4, died in a motor vehicle accident which took place on 27.01.2012 due to rash and negligent driving of a Maruti Car bearing registration No. HR-26-F-9340 by its driver namely Bhisham Singh-respondent no.1. FIR No. 36 dated 28.01.2012 (Ex.P-4) was registered in this respect.

Learned tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Bhisham Singh. The said finding has attained finality.

The learned tribunal awarded a total sum of ₹8,73,800/- to the claimants. Income of the deceased was assessed as ₹5200/- per month. Deduction of 1/4th was effected and a multiplier of 16 was applied. ₹1,00,000/- was awarded on account of loss of consortium and ₹25,000/- for funeral expenses.

Learned counsel for the appellants submits that compensation awarded to the appellants is required to be enhanced. Income of the deceased has been assessed on the lower side. Future prospects at the rate of 40 % should be afforded. However, it is not denied that in view of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, compensation awarded under the conventional heads is required to be reduced. It is, thus, prayed that compensation awarded to the appellants be reworked in terms of the abovesaid judgement.

Learned counsel for the insurance company, however, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any further enhancement. Learned counsel prays for dismissal of the appeal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Learned counsel for the appellants is unable to point out any evidence on record to indicate that the deceased was earning a salary of ₹15,500/- while working as a Supervisor with a firm at Navi Mumbai and posted at Baddi, District Solan at the time of his death. Thus, income of the deceased has been rightly assessed as ₹5200/- per month.

Income of Arun Kumar has been rightly assessed to be ₹5200/- per month and deduction of 1/ 4th correctly effected. However, increase in income on account of future prospects at the rate of 40% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in *Pranay Sethi's* case (Supra). In terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**, multiplier of 17 is to be applied instead of 16 keeping in view the age of the deceased-Arun Kumar i.e. 28 years. ₹15,000/- each on account of loss of estate and funeral expenses; besides ₹40,000/- for loss of consortium to the claimant wife is awarded. Compensation in respect to deceased-Arun Kumar, is thus re-worked as under:-

1.	Total income after addition of future prospects at the rate of 40%	₹5200 +(5200*40%=₹2080 =₹7280/-
2.	Deduction of 1/4th on account of personal expenses	₹7280/- (₹7280*1/4=₹1820) = ₹5460/-
3.	Annual dependency after applying multiplier of 17	₹11,13,840/- (₹5460x12x17)
4.	Loss of estate	₹15,000/-
5.	Loss of consortium claimant wife	₹40,000/-
6.	Funeral expenses	₹15,000/-
	Total Compensation =	₹11,83,840/-

The amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per cent per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants

shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

27.07.2018
s.khan

[LISA GILL]
Judge

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