IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102 **FAO-4916-2013 (O&M)**

Date of Decision:19.02.2018

Smt. Sumitra and another **.....Appellants**

Versus

Sunil and others **.....Respondents**

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Harish Nain, Advocate,
for the appellants.

Mr. R.K. Singla, A.A.G., Haryana,
for respondent Nos.2 and 3.

Mr. Vinod Gupta, Advocate and
Mr. Sukhdarshan Singh, Advocate,
for respondent No.4.

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HARI PAL VERMA, J.(Oral)

Appellants-claimants have filed the present appeal seeking enhancement of compensation over and above the amount, as awarded by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as "the Tribunal") vide award dated 03.07.2013.

Learned counsel for the respondent-Insurance Company states that the Regional Manager who has to assist the Court in this matter as directed by this Court vide order dated 30.01.2018 has been transferred. Therefore, he is not available. However, Ms. Manju Gupta, Dy. Manager, who is looking into the legal matters in the absence of Regional Manager, is present in Court.

In view of the above, presence of Regional Manager is dispensed with as Ms. Manju Gupta, Dy. Manager is present to assist in the case.

Briefly stated, as per the claim petition filed under Section 166 of the Motor Vehicles Act 1988 on 18.06.2012 at about 10.15 A.M., Narinder (since deceased) along with Jaydeep @ Shashi were going to Jind from Village Ramgarh, on a motorcycle bearing registration No.HR-21C-1691. When they reached near Hanuman Mandir of Village Ghimana, in the meantime, the offending bus bearing registration No.HR-61A-5325, which was being driven by respondent no.1-driver in a rash and negligent manner at a high speed, came from the opposite side and struck against their motorcycle. As a result thereof, both of them i.e. Narinder and Jaydeep @ Shashi suffered multiple, grievous and fatal injuries, which resulted into their deaths at the spot. Accordingly, an FIR No.122 dated 18.06.2012 under Sections 279 and 304-A IPC was registered at Police Station Sadar Jind against the driver of the offending vehicle.

The claimants filed a claim-petition under Section 166 of the Motor Vehicles Act, 1988 with the averments that deceased Narinder was about 24 years at the time of his death and he was serving as an Operator with Bliss Anand Private Limited Unit, Bawal, District Rewari. As per the claim-petition, he was earning ₹9,800/- per month, which is based on the certificate (Ex.P4) produced by Arun Kumar, Manager HR of Bliss Anand Private Limited. The certificate indicates that he was working as a CNC Operator in the company from 11.01.2012 to 16.06.2012. Deceased was getting salary of ₹9,800/- per month. The total salary included basic pay, house rent and conveyance allowance.

Relying upon the judgment of this Court in **Sarita and another**

Versus General Manager, Haryana Roadways and others, 2003 ACJ 1937, the Tribunal assessed the monthly income of the deceased at ₹5,880/- (rounded off to ₹6,000/-) after deducting an amount of ₹3,920/- on account of house rent and conveyance allowance. By deducting 50% of amount towards the personal expenses of deceased, the Tribunal assessed the annual loss of dependency at ₹36,000/-. By applying multiplier of 13, the total loss of dependency was assessed at ₹4,68,000/-. Apart from this, a sum of ₹20,000/- was awarded towards love and affection besides ₹5,000/- towards loss of estate and ₹10,000/- for funeral expenses. Thus a total compensation of ₹5,03,000/- along with interest @ 9% p.a. was awarded to the claimants.

Dissatisfied with the aforesaid amount of compensation, the appellants-claimants have preferred the present appeal seeking enhancement in the amount of compensation.

Learned counsel for the appellants has argued that considering the salary of deceased-Narinder and the allowances, so reflected in the pay certificate, the amount of compensation is required to be enhanced by adding future prospects, as held by the Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009.** He has further argued that the Tribunal has applied the wrong multiplier of 13 and as decided by the Apex Court in the case of **Pranay Sethi's case(supra)**, multiplier 18 was required to be applied in the case considering the age of the deceased and not the age of the claimants.

Learned counsel for respondent No.4-Insurance Company has argued that the Tribunal has rightly declined the addition of house rent and conveyance allowance. However, he has been fair enough to admit that in view of the judgment in **Pranay Sethi's case(supra)**, the claimants are entitled to 40% future prospects. He has further argued that compensation under the conventional heads also needs modification.

I have heard the learned counsel for the parties.

The Tribunal has assessed the income of the deceased as ₹6,000/- per month, but has not included the components of allowances i.e. house rent and conveyance allowance. This Court finds that in view of the judgment of Hon'ble Supreme Court in case **National Insurance Company Limited Versus Indira Srivastava and others, 2008(1) R.C.R. (Civil) 359,** the amount which was required to be paid to the deceased by his employer by way of perks, should be included for computation of his monthly income and therefore, this Court finds that the claimants are entitled to the amount of house rent and conveyance allowance. Para 17 of the judgment passed in **Indira Srivastava's case (supra)**, reads as under:-

> *"The amounts, therefore, which were required to be paid to the deceased by his employer by way of perks, should be included for computation of his monthly income as that would have been added to his monthly income by way of contribution to the family as contradistinguished to the ones which were for his benefit. We may, however, hasten to add that from the said amount of income, the statutory amount of tax payable thereupon must be deducted."*

Further, this Court finds that the Tribunal was required to add house rent and conveyance allowance @ ₹3,000/- per month towards the income of the deceased. Having applied 40% future prospects, the total monthly income of the deceased comes to ₹12,432/- per month. He being 24 years of age on the date of accident, multiplier of 18 is required to be applied.

Accordingly, on the basis of monthly income as modified and future prospects so assessed, this Court finds that the claimants are entitled for compensation in the following manner:-

Monthly income	:	₹8,800/-
Future prospects (40%)	:	₹3,552/-
Total monthly income	:	₹12,432/-
Annual income	:	₹1,49,184/-
Deductions (50%)	:	₹74,592/-
Total loss of dependency (₹74,592 x 18)	:	₹13,42,656/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Total amount of compensation	:	₹13,72,656/-
Amount already awarded	:	₹4,68,000/-
Enhanced amount	:	₹9,04,656/-

So far as, the rate of interest awarded by the Tribunal is concerned, the same is also modified to the extent that instead of awarded rate of interest i.e. 9% per annum, the claimants shall be entitled to interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

February 19, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No