IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 1664 of 2016(O&M)
Date of Decision: 24.07.2018

Anita and others

......Appellants.

Versus

Vijender Singh and others

...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.V.R.Olla, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent no.3.

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LISA GILL, J.

Appellants-claimants, seek enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Hisar (for short 'MACT'), vide impugned award dated 28.04.2015 on account of death of Baldev Singh. Appellants are the widow, minor children and parents of the deceased.

As per the averments in the claim petitions under Section 166 of the Motor Vehicle Act, preferred by the claimants-appellants, it is stated that Baldev Singh was going to his village Talawandi Rana from Hisar on his motorcycle bearing registration no. HR-20-S-1481. At about 1.30.p.m., when he reached opposite Sunder Nagar Gate Near Barwala Chowk Hisar, driving his motorcycle at a moderate speed, a Scorpio bearing registration no. DL-6CJ-4588 being driven by respondent no.1 in a rash and negligent manner, struck against his motorcycle. Baldev Singh fell down and received serious injuries and died at the spot. FIR No. 1551 dated 28.12.2013, under

Sections 279, 304-A IPC was registered against respondent-Vijender Singh son of Satbir Singh.

Baldev Singh was held to have died due to the injuries received by him in the accident which occurred on 28.12.2013, due to the rash and negligent driving of the offending vehicle by Vijender Singh-respondent no.1. Findings of the learned tribunal on this issue has attained finality.

Learned tribunal on considering the facts and circumstances of the case awarded a sum of ₹13,48,490/- as compensation on account of death of Baldev. His income was assessed as ₹9174/- per month being a Plumber, deduction of 1/4th was effected, multiplier of 15 was applied keeping in view the age of the deceased.

Sole ground raised by learned counsel for the appellants is that increase in income on account of loss of future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors.** ***2017(4) R.C.R.(Civil) 1009***. has not been awarded by the learned tribunal. Learned counsel further submits that the appellants have no objection in case the compensation is reworked in terms of the said judgment. It is thus prayed that compensation awarded to the appellants be enhanced accordingly.

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. It is argued that deduction of one third should have been effected as the parents of the deceased are not proved to be dependent on the deceased. Learned counsel prays for dismissal of the appeal.

I have heard learned counsel for the parties and have gone through the file.

It is not denied by learned counsel for respondent No.3 that insurance company has not filed any appeal in respect to the compensation awarded on account of death of Baldev. No objection was ever raised by the insurance company, at any stage. There is nothing on record to belie the claim of the appellants. Therefore, argument regarding deduction on account of personal expenses being incorrectly effected is not to be countenanced at this stage.

Income of Baldev has been rightly assessed to be ₹9174/- per month and deduction of 1/ 4th has been correctly effected. However, future prospects at the rate of 40% are indeed required to be awarded keeping in view the judgment of the Hon'ble Supreme Court in *Pranay Sethi's* case (Supra). Multiplier of 15 has been correctly applied. Compensation in respect to deceased-Baldev, is re-worked as under:-

Sr. No.	***Heads of Claim***	***Amount***
1.	Income	₹9174/- p.m.
2.	Total income after addition of future prospects at the rate of 40%	**₹9174**+(₹9174*40%=₹3670/-) = ₹12844/-
3.	Deduction of 1 4/th on account of personal expenses	₹12844 – (₹12844*1/4=₹3211) = ₹9633
4.	Dependancy while applying multiplier of 15	₹9633x12**x**15 = ₹17,33,940/-
5.	Loss of estate	₹15,000/-
6.	Funeral expenses	₹15,000/-
7.	Loss of consortium	₹40,000/-
	Grand Total	₹18,03,940/-

Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount already awarded to the claimants shall be deducted.

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, this appeal is disposed of.

[LISA GILL]
Judge

24.07.2018
s.khan

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