IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218 **FAO-4360-2014**

Date of Decision:23.01.2018

Ram Tara and another .....Appellants

Versus

Sandeep Marwaha and another .....Respondents

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

Present: Mr. Baldev Singh Dhillon, Advocate,
for the appellants.

Respondent No.1 is proceeded against *ex parte.*

Mr. Amit Kundra, Advocate,
for respondent No.2.

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<u>HARI PAL VERMA, J.(Oral)</u>

The appellants-claimants have filed the present appeal seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal (for short “the MACT”), Ambala vide award dated 21.02.2014.

Appellants-claimants have filed the claim-petition under Section 166 of the Motor Vehicles Act for the grant of compensation on account of death of their unmarried son Gulshan Kumar, aged 26 years, who died in a motor vehicular accident. The accident took place on 24.09.2012 when the offending vehicle i.e. car bearing registration No.HR-02-S-7999 came from Sadhaura side being driven by Sandeep Marwaha in a rash and negligent manner. The car hit the motorcycle of the deceased Gulshan

Kumar and as a result thereof, he suffered multiple grievous injuries. Even the motorcycle was also badly damaged. Immediately after the accident, Gulshan Kumar was taken to M.M. Hospital Mullana, where considering his critical condition, he was referred to PGI, Chandigarh. However, he died on the way.

Having considered the age and income of the deceased, the claimants were awarded a total compensation of ₹5,29,000/-, which included ₹25,000/- on account of funeral expenses, loss of consortium and loss of estate by the MACT, Ambala.

Dissatisfied with the award, the claimants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants-claimants has argued that considering the age and income of the deceased and the law laid down by the Hon'ble Apex Court in cases **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009** as well as in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009(6) SCC 121,** the impugned award is liable to be modified and higher compensation is required to be awarded. He has argued that (i) considering the age of the deceased being 26 years, the learned MACT should have applied the multiplier of 17 as he falls within the age of 26-30, but the learned MACT has wrongly applied the multiplier of 14 by considering the age of the mother, (ii) the claimants are also entitled to compensation under the head of future prospects as held in the case of **Pranay Sethi (supra)**, (iii) the claimants are also entitled to separate compensation under the head of loss of estate and funeral expenses.

On the other hand, learned counsel for respondent No.2-

Insurance Company has argued that adequate compensation has already been awarded to the claimants. However, he has been fair enough to concede that considering the age of the deceased as 26 years and in view of the law laid down in **Pranay Sethi's case(supra)**, the claimants are entitled to claim future prospects @ 40%. He has also not disputed the applicability of multiplier of 17 in the instant case instead of 14 as applied by the learned MACT.

I have heard the learned counsel for the parties.

There is no dispute with regard to the age and income of the deceased Gulshan Kumar. The learned MACT has awarded total amount of compensation of ₹5,29,000/- which included ₹25,000/- on account of funeral expenses, loss of consortium and loss of estate. However, this Court finds that the claimants have not been awarded compensation under the head of future prospects and in the light of judgment passed by Hon'ble Supreme Court in **Pranay Sethi's case (supra)**, the claimants are entitled to 40% income to be added towards the monthly income of the deceased under the head of future prospects.

Since the deceased was unmarried, there would be 50% deductions towards personal expenses of deceased. At the same time, considering the age of the deceased being 26 years, the claimants are held entitled for the applicability of multiplier of 17.

Accordingly, with the assistance of learned counsel for the parties, this Court finds that the claimants are entitled for the following compensation:-

Monthly income	:	₹6,000/-
Future prospects (40%)	:	₹2,400/-
Total monthly income	:	₹8,400/-

Annual income	:	₹1,00,800/-
Deductions (50%)	:	₹50,400/-
Multiplier (₹50,400 x 17)	:	₹8,56,800/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Total amount of compensation	:	₹8,86,800/-
Amount already awarded	:	₹5,29,000/-
Enhanced amount	:	₹3,57,800/-

Since the claimants have already been awarded an amount of ₹5,29,000/-, this amount is required to be deducted for the total amount of compensation so assessed above.

Accordingly, the claimants are entitled for enhancement of compensation of ₹3,57,800/- over and above the compensation already awarded by the learned MACT, which shall carry interest @ 7.5% per annum as awarded by the Hon'ble Apex Court in **Pranay Sethi's case (supra)** from the date of filing of claim-petition till its realization.

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

January 23, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No