

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

FAO No. 2898 of 2015(O&M)

Date of Decision: August 31 , 2018.

Kartar Singh and another

..... APPELLANT (s)

Versus

Gurpal Singh and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vikram Singh, Advocate
for the appellants.

Mr. Kulwinder Singh, Advocate
for respondent No.2 – Insurance Company.

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?

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, Karnal (for short, the 'Tribunal') vide impugned award dated 06.10.2014 on account of death of Jasvinder Singh @ Kala in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Jasvinder Singh @

Kala, who lost his life in a motor vehicle accident which took place on 05.10.2011. FIR No.287 dated 06.10.2011, under Sections 279/337/304A IPC was registered against respondent No.1-Gurpal Singh. 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 tractor-trolley bearing registration No. HR-05T-2581 by respondent No.1 – Gurpal Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹4,71,000/- as compensation to the claimants vide impugned award dated 06.10.2014. Income of the deceased was assessed as ₹6,000/- per month. Deduction to the extent of 50% on account of personal expenses was effected and multiplier of 11 was applied. ₹25,000/- was awarded towards funeral expenses. A sum of ₹50,000/- was awarded to the claimants on account of loss of love and affection, deprivation of protection and social security etc.

Learned counsel for the appellants submits that increase in income at the rate of 40% be afforded on account of future prospects in view the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680.** It is further submitted that the learned Tribunal has erred in applying the multiplier of 11, keeping in view the age of the deceased at the time of the accident. It is however submitted that there is no objection in case the amount of ₹75,000/- awarded towards funeral expenses as well as loss of love and affection, deprivation of protection and social security etc. is reduced in terms of the judgment of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra).

Learned counsel for respondent No.2 – Insurance Company however prays that the impugned award does not call for any 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.

Liability of the Insurance Company is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Gurpal Singh. Income of the deceased as assessed by the learned Tribunal i.e., ₹6,000/- per month has not been disputed. Increase in income at the rate of 40% on account of loss of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in Pranay Sethi's case (supra). Deduction at the rate of 50% on account of personal expenses has been correctly applied. However, multiplier of 18 should have been applied as the deceased was 24 years old at the relevant time. ₹15,000/- each towards funeral expenses and loss of estate are awarded instead of ₹25,000/- towards funeral expenses and ₹50,000/- towards loss of love and affection, deprivation of protection and social security etc.

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

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	6,000 p.m. i.e. ₹72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000 + (72,000 x 40%) = 100,800

3.	Income after deduction of 50% on account of personal expenses	1,00,800 – (1,00,800 x 1/2) = 50,400
4.	Total dependancy after applying a multiplier of 18	(50,400 x 18) = 9,07,200
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
Grand Total		₹9,37,200/-

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.

August 31 , 2018.
'om'

(LISA GILL)
JUDGE

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