IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 4577 of 2014(O&M)

Date of Decision: July 17 , 2018.

Sunita @ Babli and others ...... APPELLANT (s)

Versus

Akash Masih @ Vikas Masih and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sandeep Godara, Advocate for
Mr. Ajay Pal Singh Rehan, Advocate
for the appellants.

Mr. Vipul Sharma, Advocate for
Mr. Paul S.Saini, Advocate
for respondent No.3 – Insurance Company.

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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?

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LISA GILL, J.

The appellants, who are widow and minor children of the deceased – Yusaf Masih, have preferred the present appeal seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, the 'Tribunal') vide impugned award dated 05.07.2013.

Brief facts necessary for adjudication of the case are that, the appellants filed a claim petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Yusaf Masih, who lost his life in a motor vehicle accident which took place on 22.07.2012 due to the rash and negligent driving of the offending truck bearing registration No.PB-05-S-9477 driven by respondent No.1 – Akash Masih @ Vikas Masih. FIR No.68 dated 22.07.2012 under Sections 304A/427/279 IPC was registered. There is no challenge to the finding of the learned Tribunal in this respect and the same has attained finality.

The learned Tribunal vide impugned award dated 05.07.2013 awarded a sum of ₹7,00,000/- as compensation to the claimants while assessing income of the deceased to be ₹5,000/- per month after applying deduction of 1/4th on account of personal expenses keeping in view the number of dependants i.e., five as per decision of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil)*** *77*. The deceased was held to be 39 years of age therefore, multiplier of 15 was applied.

Learned counsel for the appellants submits that the deceased was working as a motorcycle/scooter mechanic. He was running a shop of automobile repairs and earning a sum of ₹30,000/- per month, thus income assessed by the learned Tribunal is on the lower side. It is contended that no amount has been awarded to the claimants on account of future prospects in view of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. It is further submitted that inadequate amount has been awarded for loss of consortium and nothing has been awarded towards loss of estate. It is thus prayed that the amount of compensation awarded to the complainants/appellants be enhanced.

Learned counsel for respondent No.3 – Insurance Company however prays for upholding the compensation awarded by the learned Tribunal vide impugned award which calls for no further enhancement as being 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 of this case.

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 – Akash Masih @ Vikas Masih. The deceased was stated to be running a automobile shop, earning ₹30,000/- per month. However, there is no evidence on record regarding the deceased working as a motorcycle/scooter mechanic and running a shop except the bald statement of the claimant – Sunita @ Babli. In this situation, the learned Tribunal has rightly assessed the income of the deceased to be ₹5,000/- per month. Multiplier of 15 as well as deduction of 1/4th on account of personal expenses have been correctly applied keeping in view of the decision in Sarla Vema case (supra). However, increase in the income at the rate of 40% on account of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. Appellants-claimants are, thus, entitled to amount of compensation of **₹10,15,000/-**, detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***

1.	Income	5000 p.m. i.e. ₹60,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	60,000 + (60,000 **x** 40%) = 84,000
3.	Income after deduction of 1/4th on account of personal expenses	84,000 – (84,000 **x** 1/4) = 63,000
4.	Total dependancy after applying a multiplier of 15	(63,000 **x** 15) = 9,45,000
5.	Loss of estate	15,000
6.	Loss of consortium	40,000
7.	Funeral expenses	15,000
	Grand Total	₹10,15,000/-

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.

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

(LISA GILL)
JUDGE

July 17 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No