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

**FAO No. 316 of 2015 (O&M)**
Date of decision : July 09, 2018

Raveena and others .....Appellants

Versus

Rafiq and others ....Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Chetan Kapoor, Advocate for
Mr. Ashish Gupta, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No. 3.

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**LISA GILL, J.**

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Mewat (hereinafter referred to as the 'Tribunal') on account of death of Arun Chaudhary vide award dated 21.11.2014.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, mother, two sisters and minor brother of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Arun Chaudhary on 25.11.2013 in a motor vehicle accident caused due to driving of the offending vehicle dumper bearing registration No. HR-74-9712 by respondent No.2 in a rash and negligent manner. Arun Chaudhary suffered serious, fatal injuries and succumbed to his injuries on the spot. FIR No. 842 dated 25.11.2013 under Sections 279 and 304-A IPC was registered at Police Station Nuh in respect to the accident. The deceased, aged 23 years at the time of the accident was stated to be highly qualified, employed with Escorts Ltd. Faridabad in Heat

Treatment Unit earning a sum of ₹22,000/- per month. Arun Chaudhary was stated to be the sole bread earner of the family.

Learned Tribunal on consideration of facts and evidence on record awarded a sum of ₹12,09,000/-. Income of the deceased was assessed as ₹7,000/- per month while observing that the deceased was not a permanent employee. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 18 was applied and total dependency was calculated at ₹11,34,000/- Additionally, a sum of ₹50,000/- on account of loss of consortium was awarded besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that the deceased was highly qualified, thus, his income was assessed on the lower side by the learned Tribunal. It is further submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, loss of future prospects at the rate of 40% should be afforded. It is, however, not disputed that compensation on account of loss of consortium, funeral expenses are required to be reworked while deduction of 1/3rd (instead of 1/4th) should be effected. Multiplier of 18 has been applied correctly. It is, thus, prayed that compensation awarded to the claimants be enhanced.

Learned counsel for the respondent - insurance company while refuting the arguments raised submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 21.11.2014 be upheld.

Heard learned counsel for the parties. The record has been carefully perused with their able assistance.

There is no dispute that Arun Chaudhary lost his life in a motor vehicle accident, which took place on 25.11.2013 caused due to the rash and negligent driving of the offending dumper bearing registration No. HR-74-9712 driven by respondent No.2 The said finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 23 years old.

Learned Tribunal has rightly assessed the income of the deceased on the basis of the document mark F issued by Escort Ltd. Agri. Machinary which reflects the salary of the deceased to be ₹6,985/- per month. Income of the deceased as assessed by the learned Tribunal as ₹7,000/- per month is upheld. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), compensation on account of loss of future prospects at the rate of 40% (₹2,800/-) is afforded in view of the age of the deceased (23 years), which takes the income of the deceased to ₹9,800/- per month. Deduction of 1/4$^{th}$ is to be applied as number of dependants is five (5), thereby rendering income of the deceased to be ₹7,350/-(9800-2450). Multiplier of 18 is correctly applied. Annual dependancy of the claimants is, therefore, assessed as ₹15,87,600/- (₹7350x12x18). The claimants are also entitled to ₹40,000/- on account of loss of consortium, ₹15,000/- for funeral expenses and ₹15,000/- for loss of estate, as well as funeral expenses etc. Claimants are, thus, entitled to total compensation of ₹16,57,600/- detailed as under:-

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|---|---|
| Loss of dependency (₹7350x12x18) | ₹15,87,600/- |
| Loss of consortium | ₹40,000/- |
| Loss of estate | ₹15,000/- |
| Funeral expenses | ₹15,000/- |
| **Total** | ₹16,57,600/- |

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

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, present appeal is disposed of.

**(Lisa Gill)**
**Judge**

July 09, 2018
rts

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