

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 5258 of 2014(O&M)

Date of Decision: August 01 , 2018.

Sarasti Devi and others

..... APPELLANT (s)

Versus

Subash Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Rajni Maurya, Advocate for
Mr. Naveen Batra, Advocate
for the appellants.

Ms. Richudeep Bajaj, Advocate for
Mr. Rajiv Kataria, Advocate
for respondent No.1.

Respondent No.2 ex-parte.

Mr. Suvir Dewan, Advocate
for respondent No.3 – 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.

CM No.12458-CII of 2014

Prayer in this application is for condonation of delay of 14 days in filing of the appeal.

For the reasons mentioned in the application as well as arguments

addressed, it is considered just and expedient to decide the appeal filed by the appellants on merits rather than dismiss it on technical consideration of delay.

Accordingly, delay of 14 days in filing of the appeal is condoned.

Application is allowed.

FAO No.5258 of 2014

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Rupnagar (for short, the 'Tribunal') vide impugned award dated 04.02.2014 on account of death of Mohinder Singh 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 Mohinder Singh, who lost his life in a motor vehicle accident which took place on 10.11.2012. FIR No.138 dated 10.11.2012 under Sections 279/337/304A/427 IPC was registered against respondent No.1. One Naresh Kumar also lost his life in this accident. 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 Bolero bearing No.PB-12-MT-3940 by respondent No.1 – Subash Singh. There is no challenge to the finding of the learned Tribunal in this respect and the same has attained finality.

The learned Tribunal awarded a sum of ₹11,19,800/- as compensation to the claimants i.e., mother, wife and children of the deceased- Mohinder Singh vide impugned award dated 04.02.2014. The deceased was working as Halwai and his income was assessed as ₹7,000/- per month. Increase

in the income at the rate of 30% was afforded on account of future prospects and 1/4th deduction on account of personal expenses was effected. Multiplier of 14 was applied. ₹6,000/- towards loss of consortium to claimant-wife and ₹5,000/- towards funeral expenses were awarded.

Learned counsel for the appellants while not disputing the income of the deceased to be ₹7,000/- per month as assessed by the learned Tribunal, submits that the increase in income on account of loss of future prospects should have been afforded at the rate of 40% instead of 30% keeping 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.** Multiplier of 15 should be applied (instead of 14) as the deceased was admittedly 40 years old at the time of accident. It is further submitted that a meagre amount has been awarded under the conventional heads. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for further enhancement of the compensation as 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 – Subash Singh. The deceased was working as Halwai and

his income has been correctly assessed as ₹7,000/- per month and 1/4th deduction on account of personal expenses has been correctly effected keeping in view that the number of dependants in this case. However, increase in income at the rate of 40% on account of loss of future prospects has to be afforded instead of 30% and ₹40,000/- on account of loss of consortium to the claimant-wife and ₹15,000/- each towards funeral expenses and loss of estate is to be awarded as well keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). As per the guidelines laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77** multiplier of 15 is required to be applied instead of 14 as the deceased was 40 years old at the relevant time.

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	7000 p.m. i.e. ₹84,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	84,000 + (84,000 x 40%) = 1,17,600
3.	Income after deduction of 1/4 th on account of personal expenses	1,17,600 – (1,17,600 x 1/4) = 88,200
4.	Total dependancy after applying a multiplier of 15	(88,200 x 15) = 13,23,000
5.	Loss of estate	15,000
6.	Loss of consortium to wife	40,000
7.	Funeral expenses	15,000
Grand Total		₹13,93,000/-

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.

Appeal is accordingly disposed of.

August 01 , 2018.
'om'

(**LISA GILL**)
JUDGE

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