

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

**FAO No. 5394 of 2014(O&M)**

**Date of Decision: September 26 , 2018.**

Raj Kumari and others

..... APPELLANT (s)

**Versus**

Aslam Khan and others

..... RESPONDENT (s)

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

Present: Mr. Sandeep Kotla, Advocate  
for the appellants.

Mr. Ankur Gupta, 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.**

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Fatehabad (for short, the 'Tribunal') vide impugned award dated 24.04.2014 on account of death of Jorawar 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 Jorawar Singh, who lost his life in a motor vehicle accident which took place on 24.12.2012. FIR

No.513 dated 24.12.2012 under Sections 279/304A IPC was registered against respondent No.1-Aslam Khan. 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 jeep bearing registration No. HR-22A-5006 by respondent No.1 – Aslam Khan. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹6,95,200/- as compensation to the appellants-claimants vide impugned award dated 24.04.2014. Income of the deceased was assessed as ₹5,200/- per month. Deduction to the extent of 1/4<sup>th</sup> on account of personal expenses was effected and multiplier of 14 was applied. ₹10,000/- towards funeral expenses and ₹30,000/- on account of loss of consortium, love and affection etc. were awarded.

Learned counsel for the appellants submits that the deceased was earning more than ₹5,200/- per month as assessed by the learned Tribunal. Learned counsel for the appellants further submits that future prospects at the rate of 25% should be awarded 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 submitted that meagre amount has been awarded under the conventional heads. It is thus prayed that the compensation amount be re-worked accordingly.

Learned counsel for respondent No.3 – Insurance Company however prays for upholding the impugned award dated 24.04.2014 as there is no ground for any enhancement of the compensation.

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 – Aslam Khan. Income of the deceased has been rightly assessed as ₹5,200/- per month by the learned Tribunal after consideration of the facts and evidence on record. Learned counsel for the appellants is unable to point out any evidence on record to indicate that the deceased was earning income higher than as assessed by the learned Tribunal. However, increase in income at the rate of 25% on account 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 of 1/4<sup>th</sup> on account of personal expenses has been correctly effected by the learned Tribunal keeping in view the number of dependants. The deceased was 44 years old at the time of the accident, therefore, multiplier of 14 has been rightly applied. ₹15,000/- each towards funeral expenses (instead of ₹10,000/-) and loss of estate are awarded to the appellants, besides, ₹40,000/- (instead of ₹30,000/-) to the claimant-wife on account of loss of consortium.

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

| <i><b>Sr.No.</b></i> | <i><b>Heads of Claim</b></i>                                                  | <i><b>Amount</b></i>                   |
|----------------------|-------------------------------------------------------------------------------|----------------------------------------|
| 1.                   | Income                                                                        | 5,200 p.m.<br>i.e. ₹62,400/- per annum |
| 2.                   | Total income after addition at the rate of 25% on account of future prospects | 62,400 + (62,400 x 25%)<br>= 78,000    |

|             |                                                                             |                                     |
|-------------|-----------------------------------------------------------------------------|-------------------------------------|
| 3.          | Income after deduction of 1/4 <sup>th</sup> on account of personal expenses | 78,000 – (78,000 x 1/4)<br>= 58,500 |
| 4.          | Total dependancy after applying a multiplier of 14                          | (58,500 x 14) = 8,19,000            |
| 5.          | Loss of estate                                                              | 15,000                              |
| 6.          | Funeral expenses                                                            | 15,000                              |
| 7.          | Loss of consortium to claimant-wife                                         | 40,000                              |
| Grand Total |                                                                             | ₹8,89,000/-                         |

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants 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 appellants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

( LISA GILL )  
JUDGE

September 26 , 2018.  
'om'

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