IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 5853 of 2014(O&M)

Date of Decision: October 22 , 2018.

Geta and others ...... APPELLANT (s)

Versus

Surjeet and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Darshan Gulati, Advocate
for the appellants.

Mr. Punit Jain, 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, Panipat (for short, the 'Tribunal') vide impugned award dated 09.01.2014 on account of death of Manoj 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 Manoj, who lost his life in a motor vehicle accident which took place on 04.12.2011. FIR No.829

dated 06.12.2011 under Sections 279/304A IPC, Police Station Samalkha was registered against respondent No.1. 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 the crane bearing registration No.HR-67A-0839 by respondent No.1 – Surjeet. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹6,72,650/- as compensation to the appellants-claimants vide impugned award dated 09.01.2014. The deceased was aged 32 years at the time of the accident. Income of the deceased was assessed as ₹4,500/- per month. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 16 was applied. ₹5,000/- towards funeral expenses were awarded, besides, ₹19,650/- on account of medical expenses.

Learned counsel for the appellants submits that the deceased was earning more income than as assessed by the learned Tribunal. It is further submitted that future prospects at the rate of 40% 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 09.01.2014 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 – Surjeet. The deceased was stated to be a labourer, earning ₹9,000/- per month. However, there is no evidence on record in this respect except a bald statement of the claimant-Geeta (PW5). At the same time, it cannot be ignored that daily wages of an unskilled labourer as on the date of accident were ₹4,643/- per month in the State of Haryana. In this situation, the income of the deceased is assessed as ₹4,650/- per month instead of ₹4,500/- per month. Increase in 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 **Pranay Sethi's case** (supra). Deduction of 1/4th on account of personal expenses has been correctly effected by the learned Tribunal. Multiplier of 16 has also been rightly applied. ₹15,000/- each towards funeral expenses (instead of ₹5,000/-) and loss of estate are awarded to the appellants. Furthermore, compensation is awarded to the tune of ₹40,000/- each to appellant No.1 on account of loss of spousal consortium, appellants No.2 to 4 on account of loss of parental consortium and appellant No.5 on account of loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. ₹19,650/- awarded by the learned Tribunal on account of medical expenses are maintained.

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	4,650 p.m. i.e. ₹55,800/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	55,800 + (55,800 **x** 40%) = 78,120
3.	Income after deduction of 1/4th on account of personal expenses	78,120 – (78,120 **x** 1/4) = 58,590
4.	Total dependancy after applying a multiplier of 16	(58,590 **x** 16) = 9,37,440
5.	Loss of spousal consortium to appellant No.1	40,000
6.	Loss of filial consortium to appellants No.2 to 4	40,000 **x** 3 = 1,20,000
7.	Loss of parental consortium to appellant No.5.	40,000
5.	Loss of estate	15,000
8.	Funeral expenses	15,000
9.	Medical expenses	19,650
	Grand Total	₹11,87,090/-

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

October 22 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No