IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5897 of 2014(O&M)

Date of Decision: August 31 , 2018.

Suman Devi and others ...... APPELLANT (s)

Versus

Anwar Hussain and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashok Bector, Advocate
for the appellants.

Mr. R.N.Singal, 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, Rupnagar (for short, the 'Tribunal') vide impugned award dated 17.12.2013 on account of death of Ajay Kumar 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 Ajay Kumar, who lost his life in a motor vehicle accident which took place on 22.04.2012. FIR No.37

dated 28.04.2012, under Sections 279/337/304A IPC was registered against respondent No.1-Anwar Hussain @ Kallu. 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 motorcycle bearing registration No. PB-32-J-4928 by respondent No.1 – Anwar Hussain @ Kallu. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹7,26,000/- as compensation to the claimants vide impugned award dated 17.12.2013. Income of the deceased was assessed as ₹4,000/- per month. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 16 was applied. A consolidated amount of ₹40,000/- was awarded to the claimants on account of loss of consortium, love and affection as well as funeral expenses. ₹1,10,000/- towards actual medical expenses were awarded.

Learned counsel for the appellants submits that increase in income at the rate of 40% be afforded on account of future prospects 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 further submitted that the learned Tribunal has erred in applying the multiplier of 16, keeping in view the age of the deceased at the time of the accident. The amount under the conventional heads also needs to be enhanced.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for any enhancement of the compensation as the 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 – Anwar Hussain @ Kallu. Income of the deceased as assessed by the learned Tribunal i.e., ₹4,000/- per month has not been disputed. Deduction at the rate of 1/4th on account of personal expenses has been correctly applied keeping in view the number of dependants. However, multiplier of 17 should have been applied as the deceased was 28 years old at the relevant time. Increase in income at the rate of 40% on account of loss of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). ₹40,000/- on account of loss of consortium to claimant-wife, besides, ₹15,000/- each towards funeral expenses and loss of estate are awarded as well. ₹1,10,000/- towards medical expenses as ordered by the learned Tribunal is 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	4,000 p.m. i.e. ₹48,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	48,000 + (48,000 **x** 40%) = 67,200
3.	Income after deduction of 1/4th on account of personal expenses	67,200 – (67,200 **x** 1/4) = 50,400
4.	Total dependancy after applying a multiplier of 17	(50,400 **x** 17) = 8,56,800

5.	Loss of consortium to claimant-wife	40,000
6.	Loss of estate	15,000
7.	Funeral expenses	15,000
8.	Medical expenses	1,10,000
	Grand Total	₹10,36,800/-

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.

(LISA GILL)
JUDGE

August 31 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No