IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 6013 of 2014(O&M)

Date of Decision: August 23 , 2018.

Mamta Rani and others ...... APPELLANT (s)

Versus

Ashok Kumar and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. J.S.Cooner, Advocate
for the appellants.

Mr. Balwinder Singh, Advocate
for respondents No.2 and 3.

Mr. D.K.Prajapati, Advocate
for respondent No.4 – 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, Ambala (for short, the 'Tribunal') vide impugned award dated 27.01.2014 on account of death of Gurnam 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 Gurnam Singh, who lost his life in a motor vehicle accident which took place on 10.12.2012. FIR No.142 dated 11.12.2012 under Sections 279/304A IPC, Police Station Shahzadpur was registered against respondent No.1-Ashok Kumar. 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 Tractor Mahindra Arjun 605 DI Ultra bearing No.HR-54-5620 by respondent No.1 – Ashok Kumar. The finding of the learned Tribunal in this respect has attained finality.

The learned Tribunal awarded a sum of ₹12,79,000/- as compensation to the claimants vide impugned award dated 27.01.2014. The deceased was working as Mason and his income was assessed as ₹8,000/- per month being a skilled labourer. 1/4th deduction on account of personal expenses was effected and multiplier of 17 was applied. ₹15,000/- towards loss of consortium to claimant-wife and ₹10,000/- towards funeral expenses were awarded. ₹30,000/- each to the three minor children were awarded on account of loss of love and affection.

Learned counsel for the appellants submits that in view of guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***, increase in income on account of loss of future prospects at the rate of 40% is required to be afforded to the claimants. It is further contended that the claimant-wife is entitled to ₹40,000/- instead of ₹15,000/- on account of loss of consortium. It is however submitted that minor children have been awarded ₹30,000/- each towards loss of love and affection, the same be adjusted towards ₹15,000/- each towards funeral expenses and on account of loss of estate which has not been awarded.

Learned counsel for respondent No.3 – Insurance company while not disputing that no appeal has been filed by the Insurance company challenging the award in question, contends that income of the deceased has been taken to be on the higher side.

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 – Ashok Kumar. The deceased was working as a Mason. The learned Tribunal assessed the income of the deceased to be ₹8,000/- per month being a skilled labourer. Admittedly, no appeal has been preferred by the Insurance company against the impugned award. Keeping in view the facts and circumstances, I find no ground in the contention raised by learned counsel for respondent No.3-Insurance company that the income of the deceased has assessed on the higher side. Therefore, income of the deceased being a skilled labourer assessed as ₹8,000/- per month by the learned Tribunal is upheld.

Deduction of 1/4th on account of personal expenses has been correctly effected keeping in view 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 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 the claimant-wife and ₹15,000/- each towards funeral expenses and loss of estate is to be awarded as well.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	8000 p.m. i.e. ₹96,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	96,000 + (96,000 **x** 40%) = 1,34,400
3.	Income after deduction of 1/4th on account of personal expenses	1,34,400 – (1,34,400 **x** 1/4) = 1,00,800
4.	Total dependancy after applying a multiplier of 17	(1,00,800 **x** 17) = 17,13,600
5.	Loss of estate	15,000
6.	Loss of consortium to claimant-wife	40,000
7.	Funeral expenses	15,000
	Grand Total	₹17,83,600/-

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 23 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No