IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6057 of 2014(O&M)

Date of Decision: September 10 , 2018.

Tika Ram ...... APPELLANT (s)

Versus

Ramesh @ Ram Lal and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.K.Agnihotri, Advocate
for the appellant.

Mr. N.C.Kinra, Advocate
for respondent No.2.

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.

CM No.16669-CII of 2014

There is a delay of 158 days in filing of the appeal.

Reply to the application for condonation of delay, filed in Court today with a copy thereof to learned counsel for the applicant-appellant, is taken on record subject to just exceptions.

Heard.

For the reasons mentioned in the application as well as the arguments addressed, delay of 158 days in filing of the appeal is condoned.

Application is disposed of.

FAO No.6057 of 2014

This appeal has been filed by the claimant seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Karnal (for short, the 'Tribunal') vide impugned award dated 12.07.2013 on account of death of Dal Chand in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Sections 166 and 144 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Dal Chand, who lost his life in a motor vehicle accident which took place on 22.03.2011. FIR (Ex.PW1/A) under Sections 279/304A IPC was registered against respondent No.1-Ramesh @ Ram Lal at the instance of PW2, Daulat Ram. 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 vehicle bearing registration No. HR-38H-4587 by respondent No.1 – Ramesh @ Ram Lal. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹4,63,500/- as compensation to the claimants vide impugned award dated 12.07.2013. Income of the deceased was assessed as ₹4,500/- per month. The deceased was 25 years old at the time of the accident. Deduction to the extent of 50% on account of personal expenses was effected and multiplier of 17 was applied. ₹2,000/- towards funeral expenses and ₹2,500/- on account of loss of estate were awarded.

Learned counsel for the appellant submits that the learned Tribunal has erred in assessing the income of the deceased to be ₹4,500/- per month whereas, the minimum wages of an unskilled labourer in the State of Haryana at the relevant time were ₹4,643/- per month. It is further submitted 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 contended that the learned Tribunal has erred in applying the multiplier of 17 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. It is thus prayed that this appeal be allowed.

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.

There a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Ramesh @ Ram Lal. It is to be noticed, at this stage, that even if the deceased is taken to be an unskilled labourer, minimum wages prescribed in the State of Haryana at the relevant time were ₹4,643/- per month. In this situation, income of the deceased-Dal Chand is assessed as ₹4,643/- per month. Deduction at the rate of 50% on account of personal expenses has been correctly effected. It is not disputed that the deceased was 25 years old at the time of the accident. As per the observations of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil)*** *77*, multiplier of 18 is required to be applied instead of 17. Increase in income at the rate of 40% on account of loss of future prospects is required to be afforded and ₹15,000/- each towards funeral expenses and loss of estate is awarded as well, keeping in view the guidelines laid down by the Hon'ble Supreme Court in **Pranay Sethi's case** (supra).

Appellant-claimant is, thus, entitled to the amount of compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	4,643 p.m. i.e. ₹55,716/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	55,716 + (55,716 **x** 40%) = 78,002
3.	Income after deduction of 50% on account of personal expenses	78,002 – (78,002 **x** 1/2) = 39,001
4.	Total dependancy after applying a multiplier of 18	(39,001 **x** 18) = 7,02,021
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
	Grand Total	₹7,32,021/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellant-claimant 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.

It is noticed Court that FAO No.5417 of 2015 filed by respondent

No.2 i.e., owner of the offending vehicle, and FAO No.4774 of 2013 filed by the Insurance company challenging the impugned award stand dismissed. Therefore, recovery rights afforded to the Insurance company are sustained vide award dated 17.07.2013

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 10 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No