IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3504 of 2016(O&M)

Date of Decision: August 28 , 2018.

Sushma and others ...... APPELLANT (s)

Versus

Nishan Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Manoj Kumar Pundir, Advocate
for the appellants.

Mr. Krishan Singh, Advocate
for respondents No.1 and 2.

Mr. Pankaj Mehta, 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, Yamuna Nagar at Jagadhri (for short, the 'Tribunal') vide impugned award dated 03.02.2016 on account of death of Ravinder 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 Ravinder Singh, who lost his life in a motor vehicle accident which took place on 04.11.2014. FIR No.149 dated 04.11.2014, under Sections 279/337/338/304A IPC was registered against respondent No.1-Nishan Singh. 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 truck bearing registration No.HR58-9802 by respondent No.1 – Nishan Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹9,96,000/- as compensation to the claimants vide impugned award dated 03.02.2016. Income of the deceased was assessed as ₹6,000/- per month. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 17 was applied. ₹10,000/- towards loss of estate and ₹20,000/- on account of transportation and funeral expenses were awarded. ₹50,000/- were awarded to appellant No.4, father of the deceased towards loss of love and affection.

Sole argument raised by learned counsel for the claimants/appellants is 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 however submitted that there is no objection in case the amount under the conventional heads is awarded in terms of Pranay Sethi's case (supra).

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 – Nishan Singh. Income of the deceased as assessed by the learned Tribunal i.e., ₹6,000/- per month is not in dispute. Deduction at the rate of 1/3rd on account of personal expenses has been correctly applied keeping in view the number of dependants. Multiplier of 17 has also been rightly applied as the deceased was 28 years old at the relevant time. 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 claimant-wife and ₹15,000/- each towards funeral expenses and loss of estate is to be awarded as well. Sum of ₹50,000/- as ordered by the learned Tribunal to appellant No.4 on account of loss of love and affection is maintained as no serious argument has been raised by learned counsel for respondent-Insurance company in respect to the same.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6,000 p.m. i.e. ₹72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000 + (72,000 **x** 40%) = 1,00,800

3.	Income after deduction of 1/3rd on account of personal expenses	1,00,800 – (1,00,800 **x** 1/3) = 67,200
4.	Total dependancy after applying a multiplier of 17	(67,200 **x** 17) = 11,42,400
5.	Loss of consortium to claimant-wife	40,000
6.	Loss of estate	15,000
7.	Funeral expenses	15,000
8.	Loss of love and affection to appellant No.4	50,000
	Grand Total	₹12,62,400/-

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 28 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No