IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5411 of 2015(O&M)

Date of Decision: September 19 , 2018.

Tej Kaur and another ...... APPELLANT (s)

Versus

Lakhwinder Singh @ Gora and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vikram Bali, 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 appellant No.1 by the learned Motor Accident Claims Tribunal, Rupnagar (for short, the 'Tribunal') vide impugned award dated 16.04.2015 on account of death of Amrik 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 Amrik Singh, who lost his life in a motor vehicle accident which took place on 04.11.2013. FIR No.144 dated 05.11.2013, under Section 304A IPC was registered against respondent No.1-Lakhwinder 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 Innova car bearing registration No. PB-10-CB-2382 by respondent No.1 – Lakhwinder Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹5,90,152/- as compensation to appellant No.1 vide impugned award dated 16.04.2015. Appellant No.2-Baljinder Singh was not held entitled to any compensation as he was married and serving the Indian Army at the relevant time. Income of the deceased was assessed as ₹1,56,000/- per annum. Deduction to the extent of 50% on account of personal expenses was effected. ₹1,00,000/- on account of loss of consortium, ₹10,000/- towards funeral expenses and ₹5,000/- on account of transportation were awarded.

Learned counsel for the appellants argues that the learned Tribunal has wrongly applied the principle of split multiplier in this case. It is prayed that compensation be afforded in terms of 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 of ₹1,00,000/- awarded on account of consortium is reduced in terms of the judgment in **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. He prays for upholding the impugned award.

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 – Lakhwinder Singh. As per the salary statement (Ex.P9) of the deceased, he was drawing a salary of ₹26,656/- per month. After deducting the allowances which were personal in nature, the income of the deceased comes to ₹25,000/- per month. I am of the considered opinion that application of split multiplier in this case is not justified. The deceased was 55 years old at the time of the accident. Therefore, multiplier of 9 is required to be applied.

Learned counsel for the parties agree that a sum of ₹10,000/- per annum has to be deducted on account of income tax. Future prospects at the rate of 15% is to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's case** (supra). Deduction at the rate of 50% has been rightly effected by the learned Tribunal. ₹40,000/- (instead of ₹1,00,000/-) on account of loss of consortium and ₹15,000/- each towards funeral expenses (instead of ₹10,000/-) and loss of estate are awarded to appellant No.1. Amount of ₹5,000/- on account of transportation as ordered by the learned Tribunal is maintained as no serious objection has been raised by learned counsel for respondent-Insurance company in respect to the same.

Appellant-claimant No.1 is, thus, entitled to the amount of compensation which is re-worked as under:-

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	25,000 p.m. i.e. ₹3,00,000/- per annum
2.	Income after deducting towards income tax	3,00,000-10,000 = 2,90,000
3.	Total income after addition at the rate of 15% on account of future prospects	2,90,000 + (2,90,000 **x** 15%) = 3,33,500
4.	Income after deduction of 50% on account of personal expenses	3,33,500 – (3,33,500 **x** 1/2) = 1,66,750
5.	Total dependancy after applying a multiplier of 18	(1,66,750 **x** 9) = 15,00,750
6.	Loss of consortium	40,000
7.	Loss of estate	15,000
8.	Funeral expenses	15,000
9.	Transportation	5,000
	Grand Total	₹15,75,750/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellant No.1 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. Manner of disbursement as directed by the learned Tribunal is maintained.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 19 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No