IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 5199 of 2016(O&M)

Date of Decision: October 22 , 2018.

Randhir @ Ranvir Singh and another ...... APPELLANT (s)

Versus

Ramesh Chand and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjay Verma, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3 – Insurance Company.

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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, Gurgaon (for short, the 'Tribunal') vide impugned award dated 04.12.2015 on account of death of Bhoop Singh in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants, who are parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of death of Bhoop Singh, who lost his life in a motor vehicle accident which took place on 21.09.2014. FIR No.407 dated 21.09.2014, under Sections 279/304A/ 427 IPC, Police Station Bilaspur, Gurgaon was registered against respondent

No.1. 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 dumper bearing registration No. HR-47B-8095 by respondent No.1 – Ramesh Chand. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹33,65,920/- as compensation to the appellants vide impugned award dated 04.12.2015. The deceased was 24 years old at the time of the accident. He was drawing a salary of ₹30,240/- per month. Deduction to the extent of 50% on account of personal expenses was effected and multiplier of 18 was applied. ₹20,000/- each on account of loss of estate and funeral expenses were awarded.

Learned counsel for the appellants submits that future prospects at the rate of 40% have not been afforded in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. Learned counsel further submits that meagre amount under the conventional heads has been awarded. It is thus prayed that compensation awarded to the appellants be enhanced.

Learned counsel for respondent No.3 – Insurance Company on the other hand submits that the learned Tribunal has erred in assessing the income of the deceased inasmuch as certain allowances have also been included. Thus no ground is made out for any enhancement of the compensation awarded by the learned Tribunal. It is however not denied that no appeal has been filed by the Insurance company.

I have heard learned counsel for the parties and have gone through the available record.

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 – Ramesh Chand. The deceased was admittedly 24 years of age at the time of the accident. Learned counsel for respondent No.3 is unable to dispute that the deceased was working as Application Engineer with M/s Delphi Connection Systems India Ltd. and was drawing a salary of ₹30,240/- per month. Salary break-up (Ex.P6/2) as well as pay-slip (Ex.P6/5) for the month of September 2014 of the deceased were proved by PW5 Ms. Vinita Pareek, Company Secretary. Income of the deceased as assessed by the learned Tribunal i.e., ₹30,240/- per month is upheld.

Multiplier of 18 has been correctly applied and deduction to the extent of 50% has been correctly effected by the learned Tribunal. Increase in income at the rate of 40% on account of future prospects has to be afforded in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. However, instead of ₹20,000/- each towards funeral expenses, loss of estate and non-pecuniary damages, ₹15,000/- each on account of loss of estate and towards funeral expenses are awarded. Both the claimants/appellants are held entitled to a sum of ₹40,000/- each on account of loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**.

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	30,240 p.m. i.e. ₹3,62,880 /- per annum
2.	Increase in income at the rate of 40%	3,62,880 + (3,62,880 **x** 40%) = 5,08,032
3.	Income after 50% deduction on account of personal expenses	5,08,032 – (5,08,032 **x** 50%) = 2,54,016
4.	Total dependancy after applying a multiplier of 18	(2,54,016 **x** 18) = 45,72,288
5.	Loss of filial consortium	80,000 = (40,000 **x** 2)
6.	Loss of estate	15,000
7.	Funeral expenses	15,000
	Grand Total	₹46,82,288/-

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 well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

October 22 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No