IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224(1) FAO-8130-2014

Mohan Lal and another .....Appellants

Versus

Sushil Kumar and another .....Respondents

(2) FAO-8679-2014(O&M)

National Insurance Company Limited .....Appellant

Versus

Mohan Lal and others .....Respondents

Date of Decision:01.02.2018

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Vikram Bali, Advocate,
for the appellants in FAO-8130-2014 and
for respondent Nos.1 and 2 in FAO-8679-2014.

Mr. Dinesh Nagar, Advocate,
for respondent No.1 in FAO-8130-2014 and
for respondent No.3 in FAO-8679-2014.

Mr. Amrinder Singh Sidhu, Advocate,
for the appellant in FAO-8679-2014 and
for respondent No.2-Insurance Company
in FAO-8130-2014.

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HARI PAL VERMA, J.(Oral)

These two identical appeals bearing FAO No.8130 2014 **(Mohan Lal and another Versus Sushil Kumar and another)** and FAO No.8679 of 2014 **(National Insurance Company Limited Versus Mohan Lal and others),** are being decided together, by this common order as both these appeals are arising out of the same award. However, for the facility of reference, facts are being culled out from **FAO No.8130 2014** filed by the appellants-claimants seeking enhancement of compensation on account of death of Amit Kumar, who died in the motor vehicular accident, which took place on 29.01.2012 near Kammi Road Naggal, District Panchkula.

The appellants-claimants have filed a claim-petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Amit Kumar. As per the claimants on 29.01.2012, when deceased Amit Kumar was going on his motorcycle bearing registration No.HR03L-9995 along with his cousin Sandeep Kumar, to distribute marriage invitation cards and had reached near village Naggar near Kammi road, in the meantime, a car bearing registration No.HP03C-2257 driven by respondent No.1 came from the opposite side, at a very high speed, which was being driven in rash and negligent manner. The offending vehicle hit the motorcycle. As a result thereof, both the occupants of the motorcycle fell down. Amit Kumar died at the spot. The accident was witnessed by Ram Kumar, who was accompanying Amit Kumar and Sandeep Kumar who was on a separate motorcycle. For this accident, FIR No.20 dated 29.01.2012 under Sections 279, 304-A IPC was registered in Police Station Chandimandir.

Though the claimants have claimed that the deceased was working as a Supervisor in a poultry farm, but no such evidence has been brought on record by them. Accordingly, the MACT has assessed the income of the deceased as ₹6,000/- per month on the basis of minimum wages applicable in the relevant year i.e., 2012. The MACT has also added 50% increase in income under the head of future prospects and in this manner, by applying the multiplier of 15 and deducting 50% amount towards personal expenses of the deceased has awarded a total compensation of ₹8,26,000/-, which included ₹25,000/- under the head of funeral expenses.

Dissatisfied with the aforesaid award, the appellants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has been fair enough in arguing that the learned MACT has awarded 50% increase in income under the head of future prospects. As held by the Hon'ble Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009**, the deceased being a self-employed, the future prospects should have been @ 40% instead of 50%. But at the same time, he has argued that considering the **Pranay Sethi's case (supra)**, multiplier 18 has to be applied considering the age of the deceased and not the age of the claimants' mother. Similarly, he has argued that the funeral expenses which have been granted @ ₹25,000/- on account of funeral expenses should be reduced to ₹15,000/-. He has also argued that addition of ₹15,000/- in the amount of compensation towards loss of estate be also granted.

On the other hand, learned counsel for respondent No.2-Insurance Company has argued that the award passed by the learned MACT is already on higher side and it is for this reason even the Insurance Company has filed a cross-appeal. He has argued that in the absence of any income so established by the claimants even the income calculated @ ₹6,000/- per month is on higher side.

I have heard the learned counsel for the parties.

There is no dispute that deceased Amit Kumar was about 22 years of age at the time of accident and therefore, the learned MACT was required to apply the multiplier of 18 instead of 15. It is the age of the deceased which is relevant for the applicability of multiplier and not the claimants as held in the case of **Pranay Sethi's case (supra)**. Since no amount of compensation has been awarded towards loss of estate, the claimants are entitled for an amount of ₹15,000/- under this head. At the same time, since the Insurance Company has also filed the appeal, therefore, having regard to the judgment passed by Hon'ble the Supreme Court in **Pranay Sethi's case (supra)**, the amount towards funeral expenses is modified to ₹15,000/-.

Accordingly, this Court finds that the claimants are entitled to compensation in the following manner:-

Monthly income	:	₹6,000/-
Future prospects (40%)	:	₹2,400/-
Total monthly income	:	₹8,400/-
Annual income	:	₹1,00,800/-
Deductions (50%)	:	₹50,400/-
Multiplier (₹50,400 x 18)	:	₹9,07,200/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Total amount of compensation	:	₹9,37,200/-
Amount already awarded	:	₹8,26,000/-
Enhanced amount	:	₹1,11,200/-

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim-petition till its realization.

With the aforesaid modification in the award, both the appeals stand disposed of.

February 01, 2018 **(HARI PAL VERMA)**
seema **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No