IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 8579 of 2014(O&M)

Date of Decision: September 04 , 2018.

Saroj Rani and another ...... APPELLANT (s)

Versus

Balinder Chahal and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Suvir Dewan, 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, Patiala (for short, the 'Tribunal') vide impugned award dated 21.07.2014 on account of death of Rahul Kumar 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 Rahul Kumar, who lost his life in a motor vehicle accident which took place on 13.07.2013. FIR

No.318 dated 13.07.2013, under Sections 279/337/338/427/304A IPC was registered against respondent No.1-Balinder Chahal. 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 Tata Canter bearing registration No. HR-38K-5270 by respondent No.1 – Balinder Chahal. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹5,90,152/- as compensation to the appellants-claimants vide impugned award dated 21.7.2014. Income of the deceased was assessed as ₹4,485/- per month. Deduction to the extent of 50% on account of personal expenses was effected and multiplier of 14 was applied. ₹25,000/- towards funeral expenses were awarded.

Learned counsel for the appellants submits 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 further submitted that the learned Tribunal has erred in applying the multiplier of 14 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.

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 – Balinder Chahal. Income of the deceased as assessed by the learned Tribunal i.e., ₹4,485/- per month has not been disputed. Deduction at the rate of 50% on account of personal expenses has been rightly effected. However, in terms of the judgment of the Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (*2015) 6 SCC 347***, multiplier of 18 should have been applied as the deceased was 22 years old at the relevant time. 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). ₹15,000/- (instead of ₹25,000/-) towards funeral expenses besides, another sum of ₹15,000/- on account of loss of estate are awarded to the appellants.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	4,485 p.m. i.e. ₹53,820/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	53,820 + (53,820 **x** 40%) = 75,348
3.	Income after deduction of 50% on account of personal expenses	75,348 – (75,348 **x** 1/2) = 37,674
4.	Total dependancy after applying a multiplier of 18	(37,674 **x** 18) = 6,78,132
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
	Grand Total	₹7,08,132/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants 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 appellants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 04 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No