221 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

Date of decision : 10.12.2018

1. FAO-8740-2014(O & M)

Bala alias Saroj Bala and another .... Appellants

versus

Suresh Kumar and others .... Respondents

2. FAO-168-2016(O & M)

Parkash and another .... Appellants

versus

Suresh Kumar and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

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Present: Mr.Manoj Chahal, Advocate for the appellants in FAO-8740-2014.

Mr.Mahender S.Chahal, Advocate for the appellants in FAO-168-2016.

Mr. Pardeep Goyal, Advocate for respondent No.3-insurance company.

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DEEPAK SIBAL, J. (ORAL)

Since two appeals being FAO-8740-2014-Bala alias Saroj Bala and another vs. Suresh Kumar and others and FAO-168-2016-Parkash and another vs. Suresh Kumar and others have been filed against a common award passed by the Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal') and arise out of the same accident, they are being disposed of through the present common judgment.

The facts, in brief, which are required to be noticed for adjudicating upon the present appeals are that on 21.08.2012 Sandeep and Ramesh were going on a motor cycle to Dadri. When they were 3 Kilometers away from Dadri, a bus bearing registration No.HR-61-A-0363 (for short 'the offending vehicle') hit their motor-cycle as a result of which they both fell down on the road. Ramesh died at the spot whereas Sandeep was taken to General Hospital, Dadri where he was declared dead. A FIR under Sections 279 and 304-A IPC was registered against the driver of the offending vehicle in Police Station Sadar Dadri. The dependents of both Ramesh and Sandeep also filed separate claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'). In the claim petition filed by the claimants on account of Sandeep's death it was averred that he was a student as well as an agriculturist and used to earn Rs. 10,000/- per month. Expenses incurred for transportation of the dead body as also funeral expenses were also claimed. The claimants in Ramesh's case averred that he was an agriculturist by profession as also running a dairy and thus was earning Rs. 15,000/- per month. Expenses incurred by the claimants towards transportation of the dead body and funeral are also sought. On being put to notice the respondent-insurance company as also the owner and driver of the offending vehicle filed their respective written statements refuting the claims set up by the claimants. Thereafter issues were framed by the Tribunal on which both the parties led their respective evidence, after sifting of which the Tribunal arrived at a conclusion that the accident which had resulted in the death of Ramesh and Sandeep had been caused due to the rash and negligent driving of the offending vehicle by respondent No.1. Thereafter the income of the deceased was assessed and on the basis thereof the appellants/claimants were held entitled to compensation, enhancement in which is sought through the present appeals.

Learned counsel for the appellants submitted that since Sandeep was 22 years of age and Ramesh was aged 20 years, multiplier of 18 should have been applied instead of 15 and 14 respectively. It is further submitted that as per the recent pronouncement by the Hon'ble Apex Court in **National Insurance Company Limited v. Pranay Sethi and others - (2017)16 SCC 680**, the claimants are also entitled to a cumulative sum of Rs. 30,000/- towards funeral expenses and loss of estate as also to the addition of 40% as future prospects to the assessed income of the deceased.

Learned counsel appearing on behalf of the respondent-insurance company very fairly states that as per the law laid down by the Hon'ble Supreme Court in the case of **Smt.Sarla Verma and others v. Delhi Transport Corporation and another (2009)6 SCC 121,** the claimants in both the appeals are entitled to compensation after applying multiplier of 18. He further submits that as per the law laid down by the Hon'ble Supreme Court in Pranay Sethi's case (supra), the appellants in both the appeals are also entitled to a cumulative sum of Rs. 30,000/- towards funeral expenses and loss of estate as also to the addition of 40% as future prospects to the assessed income of the deceased.

In view of the above statement made by learned counsel for respondent-insurance company as also the law laid down by the Hon'ble Supreme Court in Pranay Sethi's case (supra) and Sarla Verma's case (supra) the claimants in both the appeals are held entitled to the addition of future prospects at the rate of 40% to the assessed income of the deceased as also to a cumulative sum of Rs. 30,000/- towards funeral expenses and loss of estate. The impugned award is further modified to the extent that to the assessed income of both the deceased, multiplier of 18 would be applicable instead of 15 as granted by the Tribunal in the case of deceased-Sandeep and 14 in the case of deceased-Ramesh.

The claimants are further held entitled to the grant of interest on the enhanced compensation at the rate of 6.5% per annum from the date of filing of the claim petition till realisation. However, since there is delay of 394 days in filing of FAO No.168 of 2016, the appellants in that appeal shall not be entitled to interest for a period of these 394 days.

No other point was urged.

The appeals are allowed in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

10.12.2018
sunita

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