IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 8828 of 2014(O&M)

Date of Decision: September 10 , 2018.

Jaspal Kaur and others ...... APPELLANT (s)

Versus

Harjit Singh and another ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ishan Singh Cooner, Advocate
for the appellants.

Mr. Piyush Gill, Advocate for
Mr. D.K.Bhatti, Advocate
for respondent No.1.

Mr. Neeraj Khanna, Advocate for
Mr. Suvir Dewan, Advocate
for respondent No.2 – 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, Jalandhar (for short, the 'Tribunal') vide impugned award dated 15.05.2013 on account of death of Hardip Singh @ Hardeep 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 Hardip Singh @ Hardeep, who lost his life in a motor vehicle accident which took place on

02.03.2012. FIR No.17 dated 02.03.2012 was registered under Sections 279/304A/427 IPC at Police Station Mukandpur, District SBS Nagar against respondent No.1-Harjit 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 truck bearing No. PB-65-H-2552 by respondent No.1 – Harjit Singh. The finding of the learned Tribunal in this respect has attained finality.

The learned Tribunal awarded a sum of ₹21,45,984/- as compensation to the claimants vide impugned award dated 14.05.2013. The deceased was serving the Indian Army as Naik. Income of the deceased was assessed as ₹16,224/- per month. He was aged 34 years at the time of the accident. 1/4th deduction on account of personal expenses was effected. Multiplier of 16 was applied. ₹5,000/- on account of loss of consortium to the claimant-wife and ₹15,000/- towards funeral expenses were awarded. Aggrieved therefrom, the present appeal has been filed by the claimants.

Learned counsel for the appellants does not dispute the income of the deceased to be ₹16,224/- per month as assessed by the learned Tribunal as well as deduction of 1/3rd effected towards personal expenses. It is submitted that increase in income at the rate of 50% instead of 30% should have been afforded in view 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 further submitted that amount under the conventional heads should be increased as well.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for further enhancement of 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 – Harjit Singh. There is no dispute regarding the income of the deceased, which was assessed by the learned Tribunal as ₹16,224/- per month as well as application of multiplier of 16. Deduction of 1/3rd on account of personal expenses has been correctly effected keeping in view the number of dependants in this case. However, increase in income at the rate of 50% on account of future prospects is required to be afforded, as well as ₹40,000/- on account of loss of consortium to the claimant-wife, besides, ₹15,000/- each towards funeral expenses and loss of estate keeping in view the guidelines laid down by the Hon'ble Supreme Court in **Pranay Sethi's case** (supra).

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	16,224 p.m. i.e. ₹1,94,688/- per annum
2.	Total income after addition at the rate of 50% on account of future prospects	1,94,688 + (1,94,688 **x** 50%) = 2,92,032
3.	Net income after deduction of 1/3rd on account of personal expenses	2,92,032 – (2,92,032 **x** 1/3) = 1,94,688
4.	Total dependancy after applying a multiplier of 16	(1,94,688 **x** 16) = 31,15,008

5.	Loss of estate	15,000
6.	Loss of consortium to wife	40,000
7.	Funeral expenses	15,000
	Grand Total	₹31,85,008/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants No.1, 2 and 3 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 said appellants/claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 10 , 2018.
'om'

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No