IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

225 **FAO-7243-2015**

Date of Decision:14.03.2018

Bimla Devi and others .....Appellants

Versus

State of Punjab and others .....Respondents

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

Present: Mr. R.K. Shukla, Advocate,
for the appellants.

Mr. N.K. Banka, D.A.G., Punjab,
for the respondents.

****

HARI PAL VERMA, J.(Oral)

The appellants-claimants have filed the present appeal against the award dated 03.12.2014 passed by learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short "the Tribunal") seeking enhancement of compensation.

In a claim-petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of Mardan Singh, the Tribunal has awarded a total compensation of ₹8,58,000/- along with interest @ 9% per annum from the date of filing the claim-petition till its realization.

Briefly stated, the claimants filed a claim-petition on account of death of Mardan Singh in a motor vehicular accident, which took place on 31.07.2013. On the fateful day, Mardan Singh (since deceased) along with his other co-villagers and friends Sahib Singh and Suresh Chander was coming from New Delhi to Amritsar in a bus bearing registration No.PB-02-

BS-9837. The bus was being driven by Surinder Singh, at a high speed, in a rash and negligent manner. When the bus reached near Floating Restaurant, Sirhind, it fell down in the canal and due to heavy flow of water, it was carried upto 3 kms. where it was found blocked by gates of Sounda head where the canal bifurcated into two sides. For the accident in question, FIR No.110 dated 31.07.2013 under Sections 279, 304-A, 427 IPC was registered.

On the issue of quantum of compensation, the Tribunal has held that deceased Mardan Singh was 35 years of age and has left behind a widow and seven children. Though the claimants have claimed that the deceased was earning ₹20,000/- per month, but the Tribunal has found that the deceased was earning ₹5,000/- per month and considering the number of family members, the Tribunal found that the deceased must be spending 1/5th of his earnings on himself. In this manner, while assessing the income of the deceased as ₹5,000/- per month and applying multiplier 16, the Tribunal awarded the total compensation of ₹8,58,000/-.

Not satisfied with the aforesaid amount of compensation, the appellants have filed the present appeal for enhancement of compensation.

Learned counsel for the appellants has argued that the award dated 03.12.2014 is required to be modified/enhanced to the extent that no future prospects were awarded to the claimants. He has further argued that income of the deceased has not properly been appreciated and has wrongly been assessed as ₹5,000/- per month. The deceased was earning while doing the work of decorating textiles work for which he purchased costly hand work material also. Therefore, modification is required in this regard.

On the other hand, learned counsel for the respondents-State has argued that adequate compensation has already been granted to the claimants and even the rate of interest awarded by the Tribunal is on higher side and as held by the Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009,** instead of 9%, rate of interest @ 7.5% should be granted. He has further argued that the compensation awarded under the conventional heads runs contrary to the judgment cited in **Pranay Sethi's case (supra).**

I have heard the learned counsel for the parties.

The Tribunal has awarded compensation by calculating the income of the deceased as ₹5,000/- per month probably by taking into consideration minimum wages prevailing at the relevant time. But this fact cannot be ignored that the deceased had left behind eight members including his wife and incidentally except widow Bimla Devi, all the children were minor at the time of death. Therefore, it is too difficult to digest that the deceased was maintaining his family within the limited amount of ₹5,000/- per month. During the course of trial before the Tribunal, the claimants have brought bill dated 18.12.2012, Ex.P7 vide which, the handwork material was purchased by Mardan Singh for a sum of ₹55,500/- and bill dated Ex.C-7 vide which maltribatty, silver patti and resam batti handwork material was purchased by Mardan Singh for a sum of ₹97,200/- from Shiv Tex. The articles so purchased by the deceased must have been used for decorating the textiles. Therefore, if he had purchased such like material for a considerable amount of ₹97,200/-, then the deceased must have been earning much more than ₹5,000/- per month. Even otherwise, on the date of accident i.e. 31.07.2013, minimum wages for an unskilled labourer was ₹5,695/- per month whereas the said wages have been revised as ₹6,247/- per month w.e.f. 01.09.2013. Therefore, considering the fact that even minimum wages were ₹5,695/- per month on the date of accident which was subsequently revised as ₹6,247/- per month, this Court finds that income of the deceased should be around ₹7,000/- per month.

Accordingly, income of the deceased is assessed as ₹7,000/- per month. But at the same time, this Court finds that as held in the case of **Pranay Sethi (supra),** the claimants are held entitled to a consolidated amount under the conventional heads i.e. ₹70,000/-, which includes ₹15,000/- on account of loss of estate, ₹15,000/- towards funeral expenses and another ₹40,000/- on account of loss of consortium whereas the Tribunal has awarded ₹90,000/- in this regard. Therefore, this Court finds that the Tribunal has awarded excess amount of ₹20,000/- under the conventional heads. Similarly, the Tribunal has awarded rate of interest @ 9% per annum on the total compensation from the date of filing the claim-petition till its realization. But as held in the case of **Pranay Sethi (supra),** rate of interest should be granted @ 7.5% from the date of filing of the claim-petition till its realization. Moreover, the Tribunal has not awarded any amount under the head of future prospects. In view of the law laid down by the Hon'ble Apex Court in **Pranay Sethi's case (supra)**, the claimants are held entitled to future prospects as well. Since the deceased was about 35 years of age, addition of 40% towards future prospects is also required to be made in favour of the claimants.

Accordingly, income of the deceased is being considered as ₹7,000/- per month and on the basis of this income so assessed by this Court and with the assistance of learned counsel for the parties, following admissible chart of compensation is prepared:-

Monthly income	:	₹7,000/-
Future prospects (40%)	:	₹2,800/-
Total monthly income	:	₹9,800/-
Annual income	:	₹1,17,600/-
Annual dependency (after 1/5th deductions)	:	₹94,080/-
Multiplier (₹94,080/- x 16)	:	₹15,05,280/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-
Total amount of compensation	:	₹15,75,280/-
Amount already awarded	:	₹8,58,000/-
Enhanced amount	:	₹7,17,280/-

The claimants are held entitled to interest @ 7.5% per annum from the date of filing of the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

March 14, 2018 **(HARI PAL VERMA)**
seema **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No