IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 889 of 2014(O&M)

Date of Decision: August 27 , 2018.

Zile Singh and another ...... APPELLANT (s)

Versus

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

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjeev Kodan, Advocate
for the appellants.

Mr. M.B.Jain, Advocate
for respondent No.2 – 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, Jhajjar (for short, the 'Tribunal') vide impugned award dated 20.12.2012 on account of death of Jai Kishan @ Sonu in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants, who are parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of their son Jai Kishan @ Sonu, who lost his life in a motor vehicle accident which took place on 02.01.2010. FIR was lodged against respondent No.1-Kaptan Singh on the statement of PW2-Harpal Singh, an eye-witness. 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 the three wheeler auto-rickshaw bearing No.HR-69-A-2113 by respondent No.1 – Kaptan Singh. The finding of the learned Tribunal in this respect has attained finality.

The learned Tribunal awarded a sum of ₹3,50,000/- as compensation to the claimants vide impugned award dated 20.12.2012. Income of the deceased was assessed as ₹4,000/- per month. Deduction to the extent of 50% on account of personal expenses was effected and multiplier of 14 was applied. ₹14,000/- on account of funeral expenses were awarded.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹4,000/- whereas, minimum wages of even an unskilled labourer in the State of Haryana at the relevant time were ₹4,214/- per month. Learned counsel further submits that 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***, increase in income on account of loss of future prospects at the rate of 40% is required to be afforded to the claimants and ₹15,000/- each towards loss of estate and funeral expenses be awarded. It is further submitted that the learned Tribunal has erred in applying multiplier of 14 with reference to the age of the claimants, whereas it should have been applied with reference to age of the deceased.

Learned counsel for respondent No.3 – Insurance Company however prays that the impugned award does not call for further 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 – Kaptan Singh. The deceased was stated to be running a milk dairy and doing agricultural work, thereby, earning ₹15,000/- per month. However, there is no evidence on record in respect to the same except a bald statement of the claimant, PW1 Rani. However, even the daily wages of an unskilled labourer in the State of Haryana as on the date of accident were ₹4,214/- per month. In this situation, income of the deceased-Jai Kishan @ Sonu is assessed as ₹4,214/- per month. Deduction at the rate of 50% on account of personal expenses has been correctly effected. 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/- each towards funeral expenses and loss of estate is to be awarded as well.

Further, the matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma**, ***(2015) 6 SCC 347*** has specifically held that the multiplier is to be applied with reference to the age of the deceased. The deceased was admittedly 20 years old at the time of the accident. Therefore, multiplier of 18 is required to be applied instead of 14.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	4,214 p.m. i.e. ₹50,568/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	50,568 + (50,568 **x** 40%) = 70,795
3.	Income after deduction of 50% on account of personal expenses	70,795 – (70,795 **x** 50%) = 35,398
4.	Total dependancy after applying a multiplier of 18	(35,398 **x** 18) = 6,37,164
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
	Grand Total	₹6,67,164/-

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

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

August 27 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No