**IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH**

**FAO No. 7752 of 2015(O&M)**

**Date of Decision: September 11 , 2018.**

Mandeep Kaur Bhullar and others ...... APPELLANT (s)

**Versus**

Jaswinder Singh @ Surinder Singh @ Chinda and others ...... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Ashok Jindal, Advocate for the appellants.

Mr. Amit Kundra, 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, Bathinda (for short, the 'Tribunal') vide impugned award dated 01.08.2015 on account of death of Charanjit Singh in a motor vehicle accident. The claimants are the children and the mother of the deceased.

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 Charanjit Singh, who lost his life in a motor vehicle accident which took place on 09.12.2014. FIR No.103 dated 16.12.2014 under Sections 279/304A/427 IPC was registered against respondent No.1-Jaswinder Singh @ Surinder Singh @ Chinda. 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 Balero maxi Milk Tanker bearing registration No. PB03-AF-2058 by respondent No.1 . The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹15,36,000/- as compensation to the appellants-claimants vide impugned award. Income of the deceased was assessed as ₹9,000/- per month. The deceased, an agriculturist, was 41 years old at the time of the accident. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 15 was applied. ₹25,000/- towards funeral expenses were awarded, besides, ₹1,00,000/- each on account of loss of estate and loss of love & affection. ₹2,30,450/- on account of medical bills and laboratory tests were awarded as well.

Learned counsel for the appellants submits that increase in income at the rate of 25% 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***, though it is conceeded that in terms of the said judgment, compensation of ₹1,00,000/- each on account of loss of estate, love & affection, besides, ₹25,000/- for funeral expenses is required to be reduced to ₹15,000/- each for funeral expenses and loss of estate.

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 – Jaswinder Singh @ Surinder Singh @ Chinda. There is no dispute in respect to the income of the deceased i.e., ₹9,000/- per month as assessed by the learned Tribunal. Deduction at the rate of 1/3rd on account of personal expenses has been correctly effected. As the deceased was 41 years old at the relevant time, multiplier of 14 should have been applied as per the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil)*** *77*. Increase in income at the rate of 25% 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 (instead of ₹25,000/-) and loss of estate (instead of ₹1,00,000/-) are awarded to the appellants.

It is not in dispute that the deceased Charanjit Singh was admitted in the hospital on 09.12.2014 till 16.01.2015, when he passed away due to the injuries suffered by him. The claimants are, thus, held entitled to ₹30,000/- on account of attendant charges. Medical expenses on the treatment incurred to the tune of ₹2,30,450/- as ordered by the learned Tribunal are maintained.

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

| ***Sr.No.*** | ***Heads of Claim*** | ***Amount*** |
|---|---|---|
| 1. | Income | 9,000 p.m.<br>i.e. ₹1,08,000/- per annum |
| 2. | Total income after addition at the rate of 25% on account of future prospects | 1,08,000 + (1,08,000 **x** 25%) = 1,35,000 |
| 3. | Income after deduction of 1/3rd on account of personal expenses | 1,35,000 – (1,35,000 **x** 1/3) = 90,000 |
| 4. | Total dependancy after applying a multiplier of 14 | (90,000 **x** 14) = 12,60,000 |
| 5. | Loss of estate | 15,000 |
| 6. | Funeral expenses | 15,000 |
| 7. | Attendant charges | 30,000 |
| 8. | Medical expenses | 2,30,450 |
| | **Grand Total** | ₹15,60,450/- |

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 11 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No