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

**FAO No. 983 of 2014**
**Date of Decision: July 06, 2018.**

BHAGWATI AND ANR. ...... APPELLANTS.

**Versus**

SOMBIR SINGH AND ORS. ...... RESPONDENTS

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

Present: Mr. G.P. Singh, Advocate, for the appellants.
Mr. Rajbir Singh, Advocate, for respondent No. 3.

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**LISA GILL, J.**

The claimants, who are the parents of the deceased seek enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Rewari (for short 'the Tribunal') vide award dated 04.05.2013.

There is no dispute that the claimants son, namely, Manoj Kumar, lost his life in a motor vehicle accident which took place on 09.11.2010.

As per the averments in the claim petition under Section 166 of the Motor Vehicle Act (the 'Act') filed by the present appellants, Manoj Kumar(deceased) was travelling along with one Anil Kumar on 09.11.2010. The offending vehicle i.e. Canter bearing No. HR-61-0530 being driven by respondent No. 1 in a rash and negligent manner struck against the scooter of the deceased. Both Manoj Kumar and Anil Kumar received injuries. Manoj Kumar was declared dead at Government Hospital, Rewari. FIR No. 415 dated 10.11.2010, under Sections 279, 337, 304A IPC was registered in this respect.

The deceased was stated to be 22 years old at the time of the incident, working under a Contractor at Rajasthan and earning a sum of Rs. 7400/- per month.

Learned Tribunal concluded that the accident in question was caused due to the rash and negligent driving of the offending vehicle by respondent-Sombir. The said finding of the learned tribunal has attained finality.

The learned tribunal vide award dated 04.05.2013 awarded a sum of Rs. 5,16,800 with interest @ 7% per annum from the date of filing of claim petition to the present appellants. Income of the deceased was assessed as Rs. 4600/- per month. Deduction of 50% was effected. After applying multiplier of 18, dependency was assessed as Rs. 4,96,800/-. Sum of Rs. 40,000/- was awarded under the conventional heads.

Learned counsel for the appellants argues that the deceased was earning a sum of Rs. 7400/- per month while working with a Contractor at Rajasthan. Reference is made to the salary certificate Ex. P2 and Ex.P3. It is further submitted that compensation on account of future prospects has not been awarded and a meagre sum of Rs. 20,000/- has been awarded under the conventional heads. It is thus prayed that the compensation awarded to the claimants be enhanced.

Learned counsel for respondent No. 3 refuted the abovesaid averments and prays for upholding the compensation awarded by the learned Tribunal vide impugned award as being reasonable and justified in the facts and circumstances of the case.

I have heard learned counsel for the parties and have gone through the record.

Undoubtedly the deceased was claimed to be earning a sum of Rs. 7400/- per month on the basis of salary certificate Ex.P2 and P3. However, there is nothing on record to indicate the nature of work being carried out by the son of the claimants, neither the employer i.e. the contractor at Rajasthan was examined. Learned Tribunal has rightly ignored the said certificates as they were not proved by any competent person or the employer of the deceased i.e. the said contractor at Rajasthan. However, there is no dispute that deceased was 23 years old at the time of the incident. Thus, in terms 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.*** the claimants are entitled for an addition of 40% on account of future prospects. Multiplier of 18 and deduction of 50% has been correctly applied by the learned Tribunal. The claimants are entitled to a sum of Rs. 15,000/- each towards loss of estate and funeral expenses instead of sum of Rs. 20,000/- awarded to them under the conventional heads. Compensation to the claimants is thus reassessed as under:-

| ***Sr. No.*** | ***Heads of Claim*** | ***Amount assessed by this Court*** |
|---|---|---|
| 1 | Income | Rs.4600/- |
| 2 | Future Prospectus | 40% of Rs. 4600/- = Rs.1840/- |
| 3 | Total income assessed | (Rs.4600+1840)=Rs.6440/- |
| 4 | Deduction of 50% towards personal expenses | Rs.3220/- |
| 5 | Multiplier applied | 18 |
| 6 | Total dependency | Rs. 3220 x 12 x 18 = Rs. 6,95,520/- |
| 7 | Funeral expenses | Rs.15,000/- |
| 8. | Loss of Estate | Rs. 15000/- |
| 9. | Loss of consortium | NIL |
| | Total | Rs.7,25,520/- |

The appellants are thus entitled to compensation of Rs. 7,25,520/- instead of Rs. 5,16,800/- @ 7.5% per annum from the date of filing of the claim petition till realization. Needless to say the amount already deposited shall stand deducted. Directions regarding the manner and ratio of disbursement by the learned tribunal shall enure.

With the said modification in the amount of compensation, this appeal is disposed of.

**(LISA GILL)**
**JUDGE**

**July 06, 2018**
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*Whether speaking/reasoned* *Yes/No*
*Whether reportable* *Yes/No*