IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4041 of 2017 (O&M)
Date of decision:25.09.2018.

Sarla Chawla alias Sarla Chavla

...Appellant

Versus

Iqbal and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ram Bilas Gupta, Advocate for the appellant.

None for respondents No.1,2 and 4 despite service.

Mr. S.P. Arora, Advocate with
Ms. Neha Sharma, Advocate for respondent No.3/ Insurance Company.

LISA GILL, J.

This appeal has been filed by the claimant/appellant seeking enhancement of the compensation awarded to her by Motor Accident Claims Tribunal, Faridabad (`Tribunal' for short) vide award dated 17.01.2017 on account of death of Ruby Chawla in a motor vehicle accident on 11.05.2016.

The claimant, who is the mother of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of her daughter Ruby Chawla in a motor vehicle accident which took place on 11.05.2016. FIR No.124 dated 12.05.2016 was registered under Sections 279 and 304-A IPC at Police Station Old Faridabad against respondent No.1. It was pleaded that the deceased at the time of her death was 25 years old. She suffered 70% permanent disability of right side of her body including her arm and leg. She was working as a Receptionist with M/s Blue Lux Fine Chem (India), Sector 24, Faridabad, earning

Rs.12,000/- per month. She was unmarried at that time. Compensation was thus prayed for.

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 offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. Learned Tribunal further assessed the age of the deceased to be 26 years at the time of her death. The learned Tribunal assessed the income of the deceased as Rs.12000/- per month as the salary certificate (Ex.P6) was proved on record. After deducting the house rent etc, the monthly income of the deceased which came to Rs.6720/- was rounded off to Rs.6800/-. Deduction of 50% was effected towards the personal expenses. After applying a multiplier of 13, total dependency was assessed at Rs.5,30,400/- was rounded off to Rs.5,31,000/-. Another sum of Rs.25000/- was awarded towards funeral expenses. Thus, claimants were held entitled for total compensation of Rs.5,56,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that there is no occasion for reducing the income of the deceased from Rs.12,000/- as no deductions could have been effected from her monthly salary. There is no dispute regarding the deduction of 50% in income towards personal expenses. However, increase in income on account of future prospects in view of National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 is sought. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the Insurance Company has refuted the above said arguments while submitting that the impugned award has correctly been passed and no ground for any enhancement is made out.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not in dispute that deceased had died in the motor vehicle accident which took place on 11.05.2016 due to the rash and negligent driving of the offending vehicle by respondent No.1. The claimant proved on record that the deceased was drawing a salary of Rs.12,000/- per month while working as Receptionist with M/s M/s Blue Lux Fine Chem (India), Sector 24, Faridabad. PW4 Ajay Kumar Bhatia, Partner of M/s Blue Lux Fine Chem (India), Faridabad brought the summoned record as well as salary slips of the deceased Ex.P7 to P14. The deceased was 26 years old at the time of her death. Her income was assessed as Rs.6800/- while deducting Rs.1920/- as house rent, Rs.720/- as conveyance allowance and Rs.4560/- as other allowance. A perusal of the salary slip reveals that such deductions are not justified. Salary of the deceased is proved to be Rs.12000/- per month. Multiplier of 18 instead of 13 has to be applied. In view of the guidelines laid down by the Hon'ble Supreme Court in <u>National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009</u>, 40% increase in income has to be afforded on account of future prospects. Deduction of 50% towards personal expenses has rightly been effected. The claimant is entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.25,000/- towards funeral expenses.

Appellant-claimant is, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	*Heads of Claim*	
1.	Income	12000/- p.m. i.e., 1,44,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,44,000+57600 (1,44,000x40%) = 2,01,600/-
3.	Income after deduction of 50% on account of personal expenses	2,01,600–1,00,800 (2,01,600/2) = 1,00,800/-
4.	Total dependency after applying a multiplier of 18	(1,00,800 **x**18) =18,14,400/-
5.	Loss of estate	15,000/-
6.	Loss of funeral	15,000/-
Grand Total		18,44,400/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 17.01.2017, present appeal is disposed of.

(LISA GILL)
JUDGE

September 25, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No