IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2162 of 2018

Date of Decision: November 12 , 2018.

Kamaljit Kaur and others ...... APPELLANT (s)

Versus

Gurdeep Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sushil Saini, Advocate
for the appellants.

Mr. Lalit Garg, 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, Rupnagar (for short, the 'Tribunal') vide impugned award dated 11.09.2017 on account of death of Roop Singh in a motor vehicle accident.

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 Roop Singh, who lost his life in a motor vehicle accident which took place on 23.08.2016. FIR No.129

dated 24.08.2016, under Sections 279/304A IPC was registered at Police Station Morinda against respondent No.1-Gurdeep Singh. 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 bus bearing registration No. PB-23-K-3697 by respondent No.1 – Gurdeep Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹12,33,000/- as compensation to the claimants vide impugned award dated 11.09.2017. Income of the deceased was assessed as ₹8,000/- per month. Deduction to the extent of $1/4^{th}$ on account of personal expenses was effected and multiplier of 14 was applied. ₹1,00,000/- was awarded to claimant No.1 on account of loss of consortium and another sum of ₹1,00,000/- was awarded to the claimants towards loss of love and affection. ₹25,000/- was awarded towards funeral expenses.

Sole argument raised by learned counsel for the claimants/appellants is that increase in income has not been 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***. It is however submitted that there is no objection in case the amount under the conventional heads is awarded in terms of Pranay Sethi's case (supra).

Learned counsel for respondent No.3 – Insurance Company however submits 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.

Neither liability of the Insurance Company is in dispute nor there is a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Gurdeep Singh. Income of the deceased as assessed by the learned Tribunal i.e., ₹8,000/- per month is also not disputed. Deduction at the rate of 1/4th on account of personal expenses has been correctly applied keeping in view the number of dependants. Multiplier of 14 has also been rightly applied as the deceased was 44 years old at the relevant time. 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). However, instead of ₹1,00,000/- to claimant No.1 on account of loss of consortium and another ₹1,00,000/- towards loss of love and affection, ₹40,000/- each is awarded on account of loss of spousal consortium to claimant-wife, loss of parental consortium to appellants No.2 to 4 and loss of filial consortium to appellants No.5 and 6 in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. ₹15,000/- each towards funeral expenses (instead of ₹25,000/-) and loss of estate is to be awarded as well.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	8,000 p.m. i.e. ₹96,000/- per annum

2.	Total income after addition at the rate of 25% on account of future prospects	96,000 + (96,000 **x** 25%) = 1,20,000
3.	Net income after deduction of 1/4th on account of personal expenses	1,20,000 – (1,20,000 **x** 1/4) = 90,000
4.	Total dependancy after applying a multiplier of 14	(90,000 **x** 14) = 12,60,000
5.	Loss of spousal consortium to claimant-wife	40,000
6.	Loss of parental consortium to appellants No.2 to 4	40,000 x 3 = 1,20,000
7.	Loss of filial consortium to appellants No.5 and 6	40,000 x 2 = 80,000
8.	Loss of estate	15,000
9.	Funeral expenses	15,000
	Grand Total	₹15,30,000/-

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 entire 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 well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

November 12 , 2018.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No