IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 539 of 2017(O&M)

Date of Decision: November 12 , 2018.

Reena Rani and others ...... APPELLANT (s)

Versus

Sanjeev Kumar and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gaurav Sharma, Advocate
for the appellants.

Ms. Vandana Malhotra, 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.

CM No.1691-CII of 2017

There is a delay of two days in filing of the appeal.

For the reasons mentioned in the application, duly supported by an affidavit of the applicant as well as arguments addressed, delay of two days in filing of the appeal is condoned.

Application is disposed of.

FAO No.539 of 2017

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Barnala (for short, the 'Tribunal') vide impugned award dated 06.09.2016 on account of death of Mangat Rai 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 Mangat Rai, who lost his life in a motor vehicle accident which took place on 23.10.2015. FIR No.113 dated 24.10.2015 under Sections 279/427/304A IPC was registered against respondent No.1. 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 car bearing registration No.HR-24U-2000 by respondent No.1 – Sanjeev Kumar. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹11,33,000/- as compensation to the appellants-claimants vide impugned award dated 06.09.2016. The deceased was aged 25 years. Income of the deceased was assessed as ₹7,000/- per month. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 18 was applied. ₹25,000/- towards funeral expenses was awarded, besides, ₹1,00,000/- to claimant No.1 on account of loss of consortium.

Learned counsel for the appellants submits that increment on account of future prospects has not been afforded. Moreover, the learned Tribunal has wrongly effected 1/3rd deduction on account of personal expenses instead of 1/4th as the number of dependants in this case are four. It is however fairly stated that compensation under the conventional heads needs to be modified. It is thus prayed that the compensation amount be re-worked accordingly.

Learned counsel for respondent No.3 – Insurance Company while refuting the said averments, prays for upholding the impugned award. It is argued that deduction of 1/3rd has been rightly effected keeping in view that the father of the deceased, who was 50 years at the time of the accident, cannot be treated to be dependant upon the deceased.

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 income of the deceased to be ₹7,000/- per month as assessed by the learned Tribunal. However, increment on account of future prospects at the rate of 40% has to be afforded in terms the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***. Keeping in view the fact that appellant No.4, father of the deceased, is not proved to be dependant upon the deceased, deduction to the extent of 1/3rd on account of personal expenses has been rightly effected by the learned Tribunal and is so maintained. Multiplier of 18 has been correctly applied as the deceased was 25 years old at the time of the accident. ₹15,000/- each towards funeral expenses (instead of ₹25,000/-) and loss of estate are awarded as per the judgment of the Hon'ble Supreme Court in Pranay Sethi's case (supra). 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**, ₹40,000/- each are awarded to appellant No.1 on account of loss of spousal consortium (instead of ₹1,00,000/-), appellants No.2 and 3 on account of loss of parental consortium and appellant No.4 on account of loss of filial consortium.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	7,000 p.m. i.e. ₹84,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	84,000 + (84,000 **x** 40%) = 1,17,600
3.	Income after 1/3rd deduction on account of personal expenses	1,17,600 – (1,17,600 **x** 1/3) = 78,400
4.	Total dependancy after applying a multiplier of 18	(78,400 **x** 18) = 14,11,200
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of consortium	(40,000 **x** 4) = 1,60,000
	Grand Total	₹16,01,200/-

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 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