IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6845 of 2017(O&M)

Date of Decision: September 19 , 2018.

Joti @ Jyoti and others ...... APPELLANT (s)

Versus

Kuljeet Singh and another ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anil Kumar Spehia, 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, Jalandhar (for short, the 'Tribunal') vide impugned award dated 15.04.2017 on account of death of Kulwinder Lal 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 Kulwinder Lal, who lost his life in a motor vehicle accident which took place on 22.01.2016. FIR

(Ex.A1) was lodged against respondent No.1-Kuljeet Singh at Police Station Goraya. 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-10-EH-8754 by respondent No.1 – Kuljeet Singh. The said finding of the learned Tribunal has attained finality.

The learned Tribunal awarded a sum of ₹9,68,750/- as compensation to the appellants-claimants vide impugned award dated 15.04.2017. Income of the deceased was assessed as ₹6,250/- per month. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 15 was applied. ₹25,000/- towards funeral expenses and ₹1,00,000/- for loss of consortium was awarded.

Learned counsel for the appellants submits that the learned Tribunal has erred in assessing the income of the deceased to be ₹6,250/- per month whereas, even the minimum wages of an unskilled labourer in the State of Punjab at the relevant time were ₹7,210/- per month. Learned counsel for the appellants fairly submits that age of the deceased was 41 years at the time of the accident which took place on 22.01.2016. As per the birth certificate of the deceased-Kulwinder Lal, his date of birth is 25.04.1975, therefore, multiplier of 14 instead of 15 needs to be applied. It is however contended that future prospects at the rate of 25% should be awarded 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 conceded that multiplier of 14 has to be applied instead of 15 and the amount awarded towards loss of consortium and funeral expenses has to be reduced from ₹1,25,000/- to ₹70,000/- in terms of the judgment in Pranay Sethi (supra).

Learned counsel for respondent No.3 – Insurance Company however prays for upholding the impugned award dated 15.04.2017 as there is no ground for any enhancement of the compensation.

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 – Kuljeet Singh. The deceased was averred to be a mason, earning ₹1,5000/- per month. However, there is no evidence on record in this respect except the bald statements of the claimants. At the same time, it cannot be ignored that daily wages of an unskilled labourer as on the date of accident were ₹7,210/- per month in the State of Punjab. In this situation, the income of the deceased is assessed as ₹7,210/- per month. In terms of 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*, multiplier of 14 instead of 15 is to be applied as the deceased was 41 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). Deduction of 1/4th on account of personal expenses has been correctly effected by the learned Tribunal. ₹15,000/- each towards funeral expenses (instead of ₹25,000/-) and loss of estate are awarded to the appellants, besides, ₹40,000/- (instead of ₹1,00,000/-) to the claimant-wife on account of loss of consortium.

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	7,210 p.m. i.e. ₹86,520/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	86,520 + (86,520 **x** 25%) = 1,08,150
3.	Income after deduction of 1/4th on account of personal expenses	1,08,150 – (1,08,150 **x** 1/4) = 81,112
4.	Total dependancy after applying a multiplier of 14	(85,533 **x** 14) = 11,35,568
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of consortium to claimant-wife	40,000
	Grand Total	₹12,05,568/-

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

September 19 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No