IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CM No.16814-CII of 2016 in/and
RA No.208-CII of 2016 in
FAO No.4387 of 2007
Date of decision:3.8.2018

Ram Partap and others

... Appellants

versus

Chandigarh Transport Undertaking and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Ms.Madhu Sharma, Advocate,
for the applicant-respondent no.3-Insurance Company
Mr.Ashwani Arora, Advocate,
for the appellants.
Ms.Geeta Sharma, Advocate,
for respondent no.1.

...

AMOL RATTAN SINGH, J. (Oral)

CM No.16814-CII of 2016

By this application, a delay of 4 days in filing the accompanying revision application is sought.

For the reasons stated in paragraph 2 of the application, it is allowed and the delay of 4 days in filing the accompanying review application is condoned.

RA No.208-CII of 2016

Notice having been issued in this application by which a review of the order of this Court dated 5.7.2016 is sought to the extent that out of the total amount of Rs.2,99,640/- awarded towards loss of income to the non-applicants-appellants, the personal expenses that the deceased would

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have incurred had he remained alive had not been deducted therefrom.

Though learned counsel for the non-applicants-appellants does not dispute the factual position, he however submits firstly that the accompanying appeal not being that of the applicant-insurance company and secondly this Court having already noticed the departure from the statutory provisions of Section 163-A of the motor Vehicles Act, 1988, as per the ratio of the judgment of the Supreme Court cited, i.e. R.K.Malik and another vs. Kiran Pal and others, (2009) 14 SCC 1, it is not necessary to deduct personal expenses.

Having considered the aforesaid arguments, the argument of learned counsel for the non-applicants-appellants are rejected as even if it is not the appeal of the insurance company, this Court undoubtedly has enhanced the compensation awarded to the appellants to the extent of Rs.1,34,600 (Rs.3,14,900-Rs.1,80,300) and this Court was therefore bound to deduct the amount that would have been spent by the deceased towards his personal expenses had he remained alive.

Not having done so, the application is allowed and 1/3rd amount of the loss of income assessed to the appellants-claimants, i.e. 1/3rd of Rs.2,99,640/-, in terms of the second schedule to the Motor Vehicles Act, 1988, is to be deducted, the claim petition having been filed under Section 163-A of that Act.

Consequently, Rs.99,880/- is to be deducted therefrom. Thus the amount to be awarded to the non-applicants-appellants is Rs.1,99,760/- under the head of loss of income to which Rs.10,000/- towards funeral

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expenses, loss of estate and loss of consortium and Rs.5300/- towards medical expenses is to be added, as already awarded vide the impugned judgment, there being no dispute raised qua those amount by learned counsel for the applicant.

Hence, the total sum awarded as compensation to the appellants-claimants is Rs.2,15,060/-, along with interest @ 6% per annum thereupon running from the institution of the claim petition, i.e. 8.9.2004, till the realization of the enhanced amount.

The application is allowed as above.

3.8.2018 **(AMOL RATTAN SINGH)**
pk **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No

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