IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-10548-2014 (O&M)

Date of decision: 23.07.2019

Smt. Sita Bai and another

..... Appellants

Versus

Krishan Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Amit Chaudhary, Advocate for the appellants.

Ms. Kusum Raj, Advocate for
Mr. SS Sahu, Advocate for respondents No. 1 and 2.

Mr. MB Jain, Advocate for respondent No. 3-Insurance Co.

RAMENDRA JAIN, J. (ORAL)

Through this appeal the claimants have sought enhancement of compensation to the tune of ₹35,00,000/- along with interest @ 18% per annum, modifying the impugned Award dated 23.04.2014 of the Motor Accident Claims Tribunal, Fatehabad (for short-'the Tribunal'), in a claim petition filed by claimant-appellants under Section 166 of the Motor Vehicles Act, 1988, against the death of their son-Gurdass, a mason, aged around 27 years, earning ₹15,000/- per month, in a motor vehicular accident, in the night of 30.03.2012.

After holding trial, the claim petition of the appellants along with two more claim petitions was decided vide impugned consolidated Award dated 23.04.2014, whereby appellants were awarded ₹2,89,050/-,

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after deducting 25% i.e. ₹96,350/- towards contributory negligence of deceased-Gurdass, out of total compensation of ₹3,85,400/-, which was payable to the appellant-claimants.

Heard.

Having given thoughtful consideration to the rival submissions, this Court is of the considered view that the learned Tribunal has wrongly applied multiplier of '7' instead of '17', contrary to the latest law laid down by the Apex Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi and others, 2017(4) RCR(Civil) 1009.*** That apart, the amount granted to the appellants under conventional head i.e. ₹ 20,000/- is liable to be enhanced to ₹30,000/-. However, compensation granted to the appellants under the head 'future prospects' has to be reduced to 40%. Therefore, the compensation to which the claimants are entitled, is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased	₹5800/- per month+40% future prospect=₹8120
(ii)	Compensation after deducting 1/2 towards personal expenses of the deceased and applying multiplier of 17	(8120 x 12x 17x1/2)=₹8,28,240/-
(iii)	Compensation under conventional head	₹30,000/-
(iv)	Deduction of 25% towards contributory negligence	₹2,14,560/- ₹₹8,28,240+₹30,000-₹2,14,560/-=₹6,43,680/-
	Total enhanced compensation	₹6,43,680-₹2,89,050=₹3,54,630/-

Therefore, the appellants are entitled to the enhanced compensation of ₹3,54,630/-, over and above the amount of ₹2,89,050/-

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already granted by the learned Tribunal. Accordingly, respondents are directed to deposit the enhanced compensation of ₹3,54,630/- before the learned Tribunal within two months from today, along with up-to-date interest @ 9% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants, in proportion so arrived at by it, in accordance with law against proper receipt and identification.

Non-deposit of above enhanced compensation within the stipulated period would entail interest @ 12% per annum with quarterly rests, after two months.

The instant appeal disposed of, accordingly.

July 23, 2019 **(RAMENDRA JAIN)**
rishu **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**

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