**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**FAO No. 1424 of 2016**
**Date of Decision: February 21, 2019**

Jaya Devi and others ...... Appellants(s)

**Versus**

Mahender and others ..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Ms. B. Prabha, Advocate for
Mr. Suneel Ranga, Advocate
for the appellants.

Mr. M.B. Jain, Advocate
for respondent no.3-insurance company.

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**LISA GILL, J. (oral)**

This appeal has been filed seeking enhancement of the compensation awarded to the claimants/appellants on account of death of Braham Parkash vide award dated 02.11.2015, passed by learned Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal).

The appellants, who are the widow and three minor children of Braham Parkash preferred a petition under Section 166/140 of the Motor Vehicles Act claiming compensation on account of death of Braham Parkash in a motor vehicle accident which took place on 28.10.2014.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that the accident in question took place on 28.10.2014 due to rash and negligent driving of offending vehicle bearing registration no. HR-70B-6112 by its driver Mahender – respondent no.1.

This finding of the Trbunal has attained finality and is not the subject matter of challenge by any of the parties.

Learned Tribunal while assessing the income of the deceased to be Rs.5,813/- per month, awarded a sum of Rs. 11,14,440/- as compensation to the appellants-claimants, the detail of which is as under:-

| ***Sr.No.*** | ***Heads of Claim*** | ***Amount*** |
|---|---|---|
| 1. | Income | 5,813/- p.m. |
| 2. | 1/4th deducted as personal expenses of the deceased | 5,813 - 1453 = 4,360/- |
| 3. | Compensation after applying a multiplier of 17 | 4,360 x 12 x 17 = 8,89,440/- |
| 4. | Loss of Consortium | 1,00,000/- |
| 5. | Loss of love and affection | 1,00,000/- |
| 6. | Funeral expenses | 25,000/- |
| | **Grand Total** | **Rs. 11,14,440/-** |

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants does not dispute the income as assessed by the learned Tribunal. However, it is submitted that increment on account of future prospects should be afforded and the compensation under the conventional heads be re-worked in terms of the judgments of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680*** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. It is, thus, prayed that the compensation be enhanced.

Learned counsel for respondent no.3-insurance company, however, submits that there is no ground for any enhancement of the compensation and the same is in fact excessive. Dismissal of the appeal is prayed for.

I have heard learned counsel for the appellants and have gone through the record.

Braham Parkash deceased was admittedly 28 years old at the time of accident. No dispute has been raised regarding the income of the deceased as assessed by the learned Tribunal as Rs.5,813/- per month. Keeping in view the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680,*** 40% increment has to be afforded on account of future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. As the deceased was admittedly 28 years old at the time of the accident, multiplier of 17 was correctly applied by learned Tribunal. The claimants are entitled to a sum of Rs.15,000/- each towards loss of estate and funeral expenses (instead of Rs.25,000/- afforded by the learned Tribunal towards funeral expenses). Appellant no.1 - widow of Braham Parkash is entitled to a sum of Rs.40,000/- (instead of Rs.1,00,000/- afforded by the learned Tribunal towards loss of consortium). Appellants no.2 to 4 are, however, entitled to a consolidated sum of Rs.1,00,000/- towards loss of parental consortium in terms of the judgment of Hon'ble Supreme Court in ***Vimla Devi and others Vs. National Insurance Company Ltd. and another, 2019(1) RCR (Civil) 86***.

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

| *Sr.No.* | ***Heads of Claim*** | ***Amount*** |
|---|---|---|
| 1. | Income # 5,813 – 1/4th = 4360/- | 52,320/- per annum |
| 2. | Total income after addition at the rate of 40% on account of future prospects | 52,320+20,928 ( 52,320 **x** 40%) = 73,248/- |
| 3. | Total dependency after applying a multiplier of 17 | 73,248 **x** 17 = 12,45,216/- |
| 4. | Funeral expenses | 15,000/- |
| 5. | Loss of estate | 15,000/- |
| 6. | Loss of consortium to appellant no.1 | 40,000/- |
| 7. | Loss of parental consortium to appellants no. 2 to 4 | 1,00,000/- |
| | **Grand Total** | **Rs.14,15,216/-** |

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 enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

**February 21, 2019**.
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**( LISA GILL )**
**JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No