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

**FAO No. 8994 of 2014**
**Date of Decision: May 08, 2019**

Bimla

...... Appellants(s)

**Versus**

Anil Arora and others

..... Respondent(s)

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

Present: Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate
for the appellant.

Mr. A.S. Sidhu, Advocate and
Mr. Aman Mittal, Advocate
for respondent no.3-insurance company.

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

This appeal has been filed seeking enhancement of compensation awarded to the claimant vide award dated 02.08.2014, passed by learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal).

Appellant-claimant filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of her son Piara Singh due to the injuries suffered by him in the motor vehicle accident, which took place on 21.10.2013, due to rash and negligent driving of the offending car bearing registration No.CH-01-AP-3473, by its driver Anil Arora-respondent no.1. Piara Singh is claimed to be working at the Manchanda Book Store, Sector 19, Chandigarh at the time of the accident, earning a sum of Rs.8,000/- per month. Learned Tribunal while concluding that Piara Singh lost his life in the accident, which took place on 21.10.2013, on account of rash and negligent driving of the offending car bearing registration No. CH-01-AP-3473, by its driver Anil Arora-respondent no.1, assessed the age of the deceased to be 22 years old at the time of accident. While assessing the income of the deceased to be Rs.8,000/- per month, learned Tribunal awarded a sum of Rs. 10,83,000/- as compensation, which is detailed as under:-

| Sr. No. | **Heads** | **Calculations** |
|---|---|---|
| 1. | Gross income | 8000/- per month |
| 2. | Income after addition @ 50% on account of future prospects | 8000+4000 = 12,000/- |
| 3. | Income after deducting 50% as personal living expenses of the deceased | 12,000 - 50% = 6,000/- |
| 4. | Compensation after applying multiplier of 14 | 6,000 x 12 x 14 = 10,08,000/- |
| 5. | Funeral expenses | 25,000/- |
| 6. | Loss of love and affection | 50,000/- |
| | **Total** | **10,83,000/-** |

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

Learned counsel for the appellant argues that income of the deceased has been wrongly assessed as Rs.8,000/- per month whereas the deceased was earning a sum of Rs.10,500/- per month. Reference is made to the statement of Vivek Manchanda (PW-3), the owner of Manchanda Book Store, Sector 19, Chandigarh. It is further submitted that multiplier of 14 has been wrongly applied as the deceased was 22 years old at the time of the accident. It is, however, fairly stated that the compensation awarded under the conventional heads and future prospects be re-worked in terms of **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*****. 2018(4) RCR Civil 333**.

Learned counsel for the insurance company refutes the above said averments and submits that just and reasonable compensation has already been afforded to the appellant. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

There is no dispute regarding death of Piara Singh in the motor vehicle accident, which took place on 21.10.2013, on account of rash and negligent driving of the offending car bearing registration No. CH-01-AP-3473, by its driver Anil Arora-respondent no.1. It is further not in dispute that the deceased was 22 years old at the time of his death and was working at Manchanda Book Store, Sector 19, Chandigarh. A perusal of the record, however, reveals that apart from the claimant herself testifying the deceased to be earning Rs.8,000/- per month, the deceased is stated to be earning

Rs.8,000/- per month even in the claim petition. I have perused the statement of Vivek Manchanda PW-3, as well as the attendance sheets with a mention of the salary in question at the bottom as referred to by the learned counsel for the appellant. The attendance sheets Ex. P-7 and Ex. P-8 for the months of April 2013 and May 2013 mention the salary of the deceased to be Rs.9,000/- and Rs.6,900/-, respectively. Similarly, there is an inconsistency in the amount mentioned in Annexure P-5 and P-6. Therefore, learned Tribunal has rightly accepted income of the deceased to be Rs.8,000/- per month as has been claimed in the petition and as per the testimony of PW-1. In terms of the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017(16) SCC 680,*** 40% increment has to be afforded on account of future prospects instead of 50% as awarded by the learned Tribunal. Deduction of 50% was correctly effected by learned Tribunal. In terms of the judgment of Hon'ble Supreme Court in ***Munna Lal Jain Vs. Vipin Kumar Sharma*****, (2015) 6 SCC 347**, multiplier has to be applied with reference to the age of the deceased. Therefore, multiplier of 18 instead of 14 has to be applied in this case. Instead of a sum of Rs.25,000/- awarded on account of funeral expenses, the appellant is entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate. Instead of Rs.50,000/- awarded on account of loss of love and affection, the appellant is entitled to a sum of Rs.40000/- towards loss of filial consortium.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

| Sr. No. | **Heads** | **Calculations** |
|---|---|---|
| 1. | Gross income 8000 x 12 | 96,000/- per annum |
| 2. | Income after deducting 50% as personal living expenses of the deceased | 96,000 - 50% = 48,000/- |
| 3. | Income after addition @ 40% on account of future prospects | 48,000 + 19,200(48,000 x 40%) = 67,200/- |
| 4. | Compensation after applying multiplier of 18 | 67,200 x 18 = 12,09,600/- |
| 5. | Loss of estate | 15,000/- |
| 6. | Funeral expenses | 15,000/- |
| 7. | Loss of filial consortium to the appellant | 40,000/- |
| | **Total** | **12,79,600/-** |

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization.

Appeal is accordingly disposed of.

**May 08, 2019**. **( LISA GILL )**
Sunil **JUDGE**

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