IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 115 of 2017(O&M)

Date of Decision: January 21 , 2019.

Saroj ...... APPELLANT (s)

Versus

Nand Lal and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Dhruv Sihag, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.3.

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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 claimant seeking enhancement of compensation awarded to her by the learned Motor Accident Claims Tribunal, Rohtak (for short, the 'Tribunal') vide impugned award dated 04.10.2016 on account of death of her son Sandeep in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimant filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of her son Sandeep, who lost his life in a motor vehicle accident which took place on 14.12.2015. FIR

(Ex.P5) was lodged against the driver of the offending vehicle. 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 truck bearing registration No.HR-69B/2782 by respondent No.1-Nand Lal. There is no challenge to the finding of the learned Tribunal in this respect and the same has attained finality.

Learned Tribunal awarded a total sum of ₹7,73,000/- as compensation to the claimants vide impugned award dated 04.10.2016. The deceased was 24 years old at the time of the accident. Income of the deceased was assessed as ₹6,000/- per month. Deduction to the extent of 50% on account of personal expenses was effected. Multiplier of 18 was applied. ₹25,000/- was awarded on account of funeral expenses, besides, ₹1,00,000/- towards loss of love and affection.

Sole argument raised by learned counsel for the appellant is that increment on account of future prospects has not been afforded by the learned Tribunal. It is further submitted that the claimant has no objection in case the compensation awarded on account of loss of love and affection is reworked in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.**, ***2018(4) RCR(Civil) 333***. It is thus prayed that compensation be awarded to the appellant accordingly.

Learned counsel for respondent No.3 however prays that the impugned award does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding the death of Sandeep in a motor vehicle accident which took place on 14.12.2015 due to the rash and negligent driving of the offending truck bearing registration No. HR-69B/2782 by respondent No.1-Nand Lal, neither is there a dispute regarding liability of the Insurance company. The deceased – Sandeep was admittedly 24 years old at the time of his death. Copy of the School Certificate is Ex.P6. Income of the deceased assessed as ₹6,000/- per month by the learned Tribunal is accepted to be correct. However, increase in income at the rate of 40% on account of loss of future prospects has to be afforded 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***. Deduction to the extent of 50% has been rightly effected and multiplier of 18 has been correctly applied as well by the learned Tribunal. Instead of ₹25,000/- awarded on account of funeral expenses, the claimant is held entitled to ₹15,000/- each on account of funeral expenses and loss of estate. A sum of ₹40,000/- towards loss of filial consortium is awarded to the appellant mother in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd.** (supra).

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	6000 p.m. i.e. ₹72,000/- per annum

2.	Total income after addition at the rate of 40% on account of future prospects	72,000 + (72,000 **x** 40%) = 1,00,800
3.	Net income after 50% deduction on account of personal expenses	1,00,800 – (1,00,800 **x** 1/2) = 50,400
4.	Total dependancy after applying a multiplier of 18	(50,400 **x** 18) = 9,07,200
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium @40,000	40,000
	Grand Total	₹9,77,200/-

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 on the entire amount at the rate of 7.5% per annum from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

January 21 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No