IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 2566 of 2018

Date of Decision: July 22 , 2019.

Radhika Rani @ Aradhika and others ...... APPELLANT (s)

Versus

Rajbir Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for respondent No.3 – Insurance company

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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 claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Chandigarh (for short, the 'Tribunal') vide impugned award dated 03.01.2018 on account of death of Tarlochan Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Tarlochan Singh, who lost his life in a motor vehicle accident which took place on 03.01.2017. FIR No.5 dated 04.01.2017 under Sections 279/304A IPC was registered at Police Station

Bahadurgarh, District Jhajjar against respondent No.1.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No. HR-63B-0405 by respondent No.1-Rajbir Singh. This finding of the learned Tribunal has attained finality.

Learned Tribunal while accepting the deceased to be a driver, assessed his income to be ₹9,135/- per month and awarded a total compensation of ₹13,12,360/- to the claimants. Deceased was held to be 28 years old at the relevant time. Deduction to the extent of 1/3rd was effected. Multiplier of 17 was applied. ₹15,000/- each was awarded towards loss of estate and funeral expenses. ₹40,000/- was accorded to the claimant-widow towards loss of consortium.

Aggrieved from the quantum of compensation, claimants have preferred this appeal.

Learned counsel for the appellants, while accepting income of the deceased as assessed by the learned Tribunal, submits that increment on account of future prospects should be afforded. It is further submitted that meagre amount has been awarded under the conventional heads. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. 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 death of Tarlochan Singh in a motor vehicle accident which took place on 03.01.2017 due to the rash and negligent driving of the offending vehicle bearing registration No. HR-63B-0405 by respondent No.1-Rajbir Singh. Neither is there a dispute regarding liability of the Insurance company.

Deceased-Tarlochan Singh was admittedly 28 years old at the time of the accident. There is no dispute regarding income of the deceased as assessed by the learned Tribunal i.e., ₹9,135/- per month. However, claimants are entitled to addition in income at the rate of 40% on account of future prospects in terms of 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 1/3rd towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 17 has been rightly applied as well. In addition to the compensation under the conventional heads awarded by the learned Tribunal, appellant No.2 is held entitled to ₹40,000/- for loss of parental consortium and appellants No.3 and 4 are entitled to ₹40,000/- for loss of filial consortium in terms of the judgments of the Hon'ble Supreme Court in Pranay Sethi (supra) and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.**, ***2018(4) RCR(Civil) 333*** as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	9,135 p.m. i.e. ₹1,09,620/- per annum

2.	Total income after addition at the rate of 40% on account of future prospects	1,09,620 + (1,09,620 **x** 40%) = 1,53,468
3.	Net income deduction of 1/3rd on account of personal expenses	1,53,468 – (1,53,468 **x** 1/3) = 1,02,312
4.	Total dependancy after applying a multiplier of 17	(1,02,312 **x** 17) = 17,39,304
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellant No.2	40,000
9.	Loss of filial consortium to appellants No.3 and 4	40,000
	Grand Total	**₹18,89,304/-**

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 entire amount at the rate of 7.5% per annum, instead of 7%, from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

July 22 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No