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

Date of decision:26.8.2016

1. **XOBJ-25-CII of 1999 in/and**

FAO No.335 of 1999(O&M)

U.T. Chandigarh ….Appellant

VERSUS

Krishna Kumari and others .....Respondents

2. FAO No.336 of 1999(O&M)

U.T. Chandigarh ….Appellant

VERSUS

Parvinder Singh .....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Suvir Sehgal, Senior Standing Counsel with
Ms. Harsh Rekha Kapoor, Advocate and
Mr. Shiv Goyal, Advocate for the appellant(s).

Mr. Vishal Khatri, Advocate for respondent No.1 to 3
and for cross-objectors.

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REKHA MITTAL, J.

This order will dispose of FAO Nos.335 and 336 of 1999 and cross objections in FAO No.335 of 1999 as these have emerged out of the same award dated 03.11.1998 passed by the Motor Accident Claims Tribunal, Chandigarh (in short 'the Tribunal'). For brevity, facts are taken from FAO No.335 of 1999.

The parties shall be referred to as claimants and U.T. Chandigarh for the sake of convenience.

FAO Nos.335 and 336 of 1999 have been filed by U.T. Chandigarh to assail its liability whereas cross objectors/claimants seek enhancement of compensation qua death of Paramjit Kumar.

Counsel representing U.T. Chandigarh has vehemently argued that as the alleged offending vehicle Jeep No.CH-01-G-0283 was not in possession of the registered owner nor was driven by its employee at the time of occurrence on 03.11.1994 at about 9.25 PM near the chowk of Sectors 29/30, 31/32, U.T. Chandigarh has been wrongly held liable to pay compensation besides liability of Satinder Singh (driver) and M/s Sanghi Motors in whose possession the vehicle in question was for the purpose of repairs. In support of his contention, he has referred to a judgment of the Madhya Pradesh High Court State of M.P. Vs. Premabai, 1979 MPLJ 214.

Counsel for the claimants/respondents, on the contrary, has submitted that U.T. Chandigarh being the registered owner of the vehicle is jointly and severally liable to pay compensation as has been held by the Tribunal. It is further argued that U.T. Chandigarh cannot escape its liability on the pretext that the vehicle was left with M/s Sanghi Motors for the purpose of repairs. In support of his contention, he has referred to a recent judgment of Hon'ble the Apex Court Managing Director, KSRTC Vs. New India Assurance Company Ltd. and another with connected matter, 2015(4) RCR (Civil) 938.

To support the cross objections filed by claimants, it is argued that the learned Tribunal did not grant benefit of increase in income for future prospects; the multiplier adopted by the Tribunal i.e. 10 is liable to be corrected in the light of judgment Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.

Compensation awarded under conventional heads needs re-look and enhancement.

I have heard counsel for the parties, perused the paper-book particularly the award passed by the learned Tribunal.

The learned Tribunal assessed income of the deceased at Rs.3000/- per month, deducted 1/3rd towards personal expenses, adopted a multiplier of 10 to compute loss of dependency to the tune of Rs.2,40,000/-, another amount of Rs.10,000/- has been awarded on account of funeral expenses making total compensation to the extent of Rs.2,50,000/-, jointly and severally liable to be paid by Satinder Singh (driver), Deputy Controller (Stores) Printing and Stationary U.T. Chandigarh (owner) and M/s Sanghi Motors, Industrial Area, Chandigarh (respondents No.1, 2 and 4 respectively in the petition).

The learned Tribunal has held in para 17 that the vehicle was given for repair. However, no evidence has been led by M/s Sanghi Motors as to whether the vehicle was taken out for repair by Satinder Singh. They have not even proved as to what was the capacity of Satinder Singh in M/s Sanghi Motors. In these circumstances, although qua third party, owner U.T. Administration is liable, yet M/s Sanghi Motors too along with Satinder Singh who has taken the vehicle from custody of M/s Sanghi Motors are severally and jointly liable to pay compensation.

Indisputably, U.T. Chandigarh is the registered owner of the vehicle in question. In Managing Director, KSRTC's case (supra), the offending vehicle was given on lease by the registered owner to Karnataka Road Transport Corporation (in short 'KSRTC'). The Tribunal held the registered owner, insurer along with KSRTC liable to pay compensation to the claimants. In appeal filed by the insurer before the High Court, it was held that liability to make payment of compensation is that of KSRTC alone. KSRTC through its Managing Director filed an appeal before Hon'ble the Apex Court. On a detailed consideration of the definition of owner prescribed under Section 2(30) of the Motor Vehicles Act, 1988 and Section 2(19) of the Motor Vehicles Act, 1939 and series of judgments on the issue, it was held in para 34 that registered owner, insurer as well as KSRTC would be liable to make payment of compensation jointly and severally to the claimants and KSRTC in terms of the lease agreement entered into with the registered owner would be entitled to recover the amount paid to the claimants from the owner as stipulated in the agreement or from the insurer. When the facts and circumstances of the present case are examined in the light of the observations made by the Apex Court, I find myself unable to accept the submissions made by counsel for U.T. Chandigarh that they are not liable to pay compensation or to say in other words that liability to pay compensation can be fastened only against Satinder Singh and M/s Sanghi Motors. In this view of the matter, there is no merit in the appeals preferred by U.T. Chandigarh and same are accordingly dismissed.

This brings the Court to the cross objections preferred by the claimants. Paramjit Kumar (since deceased) was unmarried aged about 23 years and claimants are his unfortunate parents. As has been noticed hereinbefore, the learned Tribunal has assessed his income to the tune of Rs.3,000/- per month and allowed deduction to the extent of 1/3rd. There is no gain-saying that the Tribunal has an obligation to assess just, reasonable and equitable compensation in order to make up the loss as the money can possibly do. The Tribunal has adopted a multiplier of 10 by taking into consideration age of parents of the deceased. As the deceased was unmarried and the claimants are his parents, in view of authoritative enunciation of law laid down in Sarla Verma's case (supra), admissible deduction would be 50% but the multiplier would be 18 in place of 10. The claimants shall also be entitled to 50% increase in income for future prospects in the light of judgment Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170. Under these circumstances, loss of dependency comes to Rs.4,86,000/- (Rs.2250/- x 12 x 18).

Mother of the deceased is awarded an amount of Rs.25000/- for loss of love and affection. Compensation to the tune of Rs.10,000/- for funeral expenses awarded by the Tribunal is affirmed. In this manner, total compensation payable to the claimants comes to Rs.5,21,000/- and the enhanced compensation is Rs.2,71,000/- (Rs.5,21,000/- - Rs.2,50,000/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of filing of petition till realisation and the same shall be payable exclusively to the mother. The liability to pay enhanced compensation shall be of respondents No.1, 2 and 4 in the original petition, in terms of the award passed by the Tribunal.

Disposed of accordingly.

AUGUST 26, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no