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

**FAO No.414 of 2010(O&M)**

**Date of decision:29.11.2016**

Sharanjit Kaur and others ….Appellants

VERSUS

Kalicharan Patel and others .....Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Rajbir Singh, Advocate and
Mr. Jatinder Singla, Advocate for the appellants.

Ms. Shamsher Kaur, Advocate for respondent No.3.

**REKHA MITTAL, J. (Oral)**

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal (A), Sangrur (in short 'the Tribunal') in regard to death of Tarvinder Singh Chadda in a motor vehicular accident that occurred on 15.06.2006.

The Tribunal assessed income of the deceased at Rs.5,000/- per month, deducted 1/3rd for personal and living expenses, adopted a multiplier of 15 to compute loss of dependency at Rs.6,30,000/-. In addition, an amount of Rs.9,500/- has been awarded for funeral expenses, making total compensation to Rs.6,39,500/-.

Counsel for the appellants has submitted that the deceased had been paying loan installment of Rs.7,460/- per month to ICICI Bank, sufficient to show that he was earning more than Rs.7,460/-. The Tribunal has not allowed benefit of increase in income for future prospects to the extent of 30%. As the claimants are four in number, admissible deduction would be 1/4th in place of 1/3rd. Compensation awarded under conventional heads needs enhancement in the light of judgments Rajesh

Diwaker Gulati
2016.12.03 14:08
I attest to the accuracy and
authenticity of this document

and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170 and Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (2) RCR (Civil) 945.

Counsel for the Insurance Company has submitted that in view of age of the deceased, multiplier should be 14 in place of 15. The claimants may not be allowed benefit of future prospects as the matter in this regard is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in **National Insurance Company Ltd. vs. Pushpa, SLP (C) No.16735 of 2014, decided on 02.07.2014.**

I have heard counsel for the parties, perused the paper-book particularly the award.

Sharanjit Kaur, widow of the deceased appeared in the witness box and deposed that her husband was earning Rs.10,000/- per month as he was doing business of sale and purchase of car. The claimants produced on record statement of account Mark 'J' regarding car loan taken from ICICI Bank. They have not examined any witness to prove the document in accordance with law. This apart, it is difficult to believe that the deceased could pay an amount of Rs.7,460/- as installment out of earning of Rs.10,000/- per month. Under the circumstances, claimants cannot derive any advantage to their contention for increase in income of the deceased on the basis of document mark 'J'. In view of age of the deceased, admissible multiplier is 14 but deduction towards personal expenses would be 1/4 in place of 1/3 as there are four claimants held to be dependant upon income of the deceased. The mere fact that a reference is pending before a Larger bench of Hon'ble the Supreme Court is not sufficient to deny the benefit of future prospects till the judgment in Rajesh

Diwaker Gulati
2016.12.03 14:08
I attest to the accuracy and
authenticity of this document

and others' case (supra) is varied or set aside. The claimants shall be entitled to increase in income for future prospects to the extent of 30%. In this manner, loss of dependency comes to Rs.8,19,000/- [Rs.8,40,000/- (Rs.5000/- x 12 x 14) + Rs.2,52,000/- (30% towards future prospects) - Rs.2,73,000/- (1/4$^{th}$ deduction towards personal expenses)].

Sharanjit Kaur, widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium. An amount of Rs.1,50,000/- in equal share to the minor children and Rs.50,000/- to mother for loss of love and affection. The appellants are allowed Rs.25,000/- each for funeral expenses and loss of estate.

In view of the above, total compensation comes to Rs.11,69,000/- and the enhanced compensation is Rs.5,29,500/- (Rs.11,69,000/- - Rs.6,39,500/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization. The enhanced compensation shall be payable to the children in equal share except an amount of Rs.1,00,000/- towards consortium to the widow and Rs.50,000/- for loss of love and affection to the mother. The amount falling to share of the children shall be deposited in Fixed Deposit for a period of three years or till they attain the age of majority, whichever is later.

The appeal is partly allowed in the aforesaid terms.

**NOVEMBER 29, 2016** **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no

Diwaker Gulati
2016.12.03 14:08
I attest to the accuracy and
authenticity of this document