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

FAO No.6736 of 2011(O&M)

Date of decision:10.8.2016

Mamta and others ….Appellants

VERSUS

Sudhir Yadav and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Jitender Nara, Advocate for the appellants.

Mr. Sanjeev Goyal, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Gurgaon (in short 'the Tribunal') in regard to death of Sudhir Kumar in a motor vehicular accident that occurred on 22.03.2010.

Counsel for the appellants has submitted that the Tribunal has deducted $1/3^{rd}$ for personal expenses in place of $1/4^{th}$ in the light of judgment in Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77. The compensation awarded under conventional heads needs addition and enhancement in the light of judgment Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (2) RCR (Civil) 945. The appellants have not been allowed any benefit of increase in income for future prospects.

Counsel for the Insurance Company has submitted that as the matter with regard to future prospects 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, the appellants are not entitled to the said benefit.

Another submission made by counsel is that Mamta, widow of the deceased, appeared in the witness box and tendered into evidence her affidavit (Ex.PW5/A) wherein she has categorically deposed that the deceased was 31 years old, therefore, the admissible multiplier would be 16 in place of 17.

I have heard counsel for the parties, perused the paper-book, records of the Court below with able assistance of counsel for the parties.

The Tribunal assessed income of the deceased at Rs.4500/- per month, deducted 1/3rd towards personal expenses, adopted a multiplier of 17 and computed loss of dependency to the tune of Rs.6,12,000/-. An amount of Rs.20,000/- each has been awarded for funeral expenses and loss of love and affection, loss of consortium and mental agony, making total compensation to the tune of Rs.6,52,000/-.

The multiplier of 17 is admissible in case the deceased is in the age bracket of 25 to 30 years. Mamta, widow of the deceased, in her duly sworn affidavit has deposed that her husband was 31 years old. This apart, age of one of the children of the deceased has been stated to be 10 years sufficient to show that the deceased was more than 30 years old. In view of age of the deceased, multiplier of 16 is admissible in the circumstances.

The Tribunal has not allowed benefit of increase in income for future prospects. The said benefit cannot be denied to the appellants merely because the matter is pending before a Larger bench till the judgment Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170, is set aside. After extending benefit of future prospects to the extent of 50% and allowing deduction to the extent of 1/4th admissible in the circumstances, loss of dependency comes to Rs.9,72,000/-

[Rs.8,64,000/- (Rs.4500/- x 12 x 16) + Rs.4,32,000/- (50% towards future prospects) - Rs.3,24,000/- (1/4th deduction towards personal expenses)].

The appellants are entitled to an amount of Rs.25,000/- for expenses on funeral, Rs.1,00,000/- for loss of consortium to the widow, an amount of Rs.2,25,000/- in equal share to the minor children and a sum of Rs.50,000/- to mother of the deceased for loss of love and affection.

In this manner, total compensation payable to the appellants comes to Rs.13,72,000/- and the enhanced compensation is Rs.7,20,000/- (Rs.13,72,000/- - Rs.6,52,000/-). The appellants shall be entitled to interest at the rate of 7.5% per annum on the compensation assessed by the Tribunal as well as on enhanced compensation from the date of filing of petition till realization. The compensation payable to children and mother towards loss of love and affection shall be payable to them as per their entitlement as discussed hereinbefore, remaining enhanced compensation shall be paid to widow of the deceased**.** The enhanced compensation payable to children of the deceased shall be deposited in a Fixed Deposit Receipt till they attain the age of majority, payable to the widow and mother shall be deposited in a Fixed Deposit Receipt for a period of three years. The appellants will not raise any loan against the amount deposited in the Fixed Deposit Receipts.

Disposed of accordingly.

AUGUST 10, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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