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

FAO No.1183 of 2014(O&M)

Date of decision:30.9.2016

Nayeema Kosar and others ….Appellants

VERSUS

M/s Ideal Movers Private Ltd. and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ashish Gupta, Advocate for the appellants.

Mr. R.K. Bashamboo, 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, Nuh (in short 'the Tribunal') in regard to death of Sabir Khan in a motor vehicular accident that took place on 06.09.2010.

The Tribunal assessed income of the deceased at Rs.3500/- per month, deducted 1/4th for personal expenses, adopted a multiplier of 18 to compute loss of dependency at Rs.5,67,000/-. In addition, an amount of Rs.20,000/- has been awarded for transportation, last rites and loss of consortium, making total compensation to Rs.5,87,000/- payable with interest at the rate of 9% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects and compensation awarded under conventional heads needs enhancement.

Counsel for the respondent (Insurance Company) has supported the award with the submission that as the matter with regard to future prospects is pending before a Larger Bench of Hon'ble the Apex 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 same cannot be allowed.

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

Sabir Khan- deceased was 25 years old and left behind his widow, two minor children and parents. As has been noticed hereinbefore, the Tribunal assessed his income at Rs.3500/- per month by taking into consideration wage of an unskilled person. The mere fact that the matter with regard to grant of future prospects is pending before a Larger Bench is not sufficient to deny the said benefit till the judgment in Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170, is varied or set aside. After allowing benefit of future prospects, compensation qua loss of dependency comes to Rs.8,50,500/- [Rs.7,56,000/- (Rs.3500 x 12 x 18) + Rs.3,78,000/- (50% future prospects) – Rs.2,83,500/- (1/4th deduction towards personal expenses).

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

In view of the above, total compensation comes to Rs.12,00,500/- and the enhanced compensation is Rs.6,13,500/- (Rs.12,00,500/- - Rs.5,87,000/-), 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 widow and the minor children in equal share, compensation payable to children shall be deposited in a Fixed Deposit Receipt till they attain the age of majority and the interest accruing thereon shall be payable to mother of the children for meeting expenses on their living and education.

The appeal is partly allowed in the aforesaid terms.

SEPTEMBER 30, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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