IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5280 of 2014(O&M)

Date of decision:21.10.2016

Rajo Devi and others ….Appellants

VERSUS

Gurbir Singh and another .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate for the appellants.

Mr. Gitish Bhardwaj, Advocate for respondent No.1.

Mr. Satpal Dhamija, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Rupnagar (in short 'the Tribunal') in regard to death of Ram Kumar in a motor vehicular accident that took place on 07.04.2012.

The Tribunal assessed income of the deceased at Rs.7500/- per month, deducted 1/4th for personal expenses, adopted a multiplier of 11 to compute loss of dependency at Rs.7,42,500/-. In addition, an amount of Rs.20,000/- for loss of consortium, love and affection and Rs.10,000/- for funeral expenses has been awarded, making total compensation to Rs.7,72,500/- payable with interest at the rate of 8% per annum from the date of petition till realization.

Counsel for the appellants would contend 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), on the contrary, would urge that Shivjit Kumar PW-3 examined by the claimants has deposed that Ram Kumar deceased was doing agricultural work and earning Rs.7,000/- per month. It is argued that in view of the facts deposed by Shivjit Kumar PW-3 examined by the claimants themselves, income of the deceased should not be assessed more than Rs.7,000/- per month which is otherwise more than minimum wage available to an unskilled worker in the State of Punjab at the relevant time.

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

Indisputably, the respondents have not preferred an appeal against the award passed by the Tribunal. Nevertheless, it is the obligation of the Tribunal to assess just, reasonable and equitable compensation that can never be a bonanza, largesse or source of profit for the claimants. In view of the evidence on record particularly the statement of Shivjit Kumar PW-3, income of the deceased is assessed at Rs.7,000/- per month. The claimants are entitled to increase in income for future prospects to the extent of 15%; the deduction and multiplier adopted by the Tribunal are affirmed.

In view of the above, compensation qua loss of dependency comes to Rs. 7,96,950/- [Rs.9,24,000/- (Rs.7000 x 12 x 11) + Rs.1,38,600/- (15% future prospects) – Rs.2,65,650/- (1/4th deduction towards personal expenses).

The widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium, children are allowed an amount of Rs.3,00,000/- in equal share 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.12,46,950/- and the enhanced compensation is Rs.4,74,450/- (Rs.12,46,950/- - Rs.7,72,500/-), 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 widow and the minor children in equal share. The compensation payable to children shall be deposited in a Fixed Deposit Receipt till they attain the age of majority and share of widow shall be deposited in a Fixed Deposit Receipt for a period of 3 years.

The appeal is partly allowed in the aforesaid terms.

OCTOBER 21, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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