IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision:28.9.2016

1. **FAO No.5991 of 2014(O&M)**

Mangat Ram and others ….Appellants

VERSUS

Varinder Kumar and others .....Respondents

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2. **FAO No.6036 of 2014(O&M)**

Gagandeep Kaur and others ….Appellants

VERSUS

Varinder Kumar and others .....Respondents

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3. **FAO No.8277 of 2014(O&M)**

Kamaljet Kaur and another ….Appellants

VERSUS

Varinder Kumar and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Mr. Navin Kapur, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.5991, 6026 and 8277 of 2014 as these have emerged out of the same accident in which separate awards dated 25.03.2013 by the Motor Accidents Claims Tribunal, Ludhiana (for brevity 'the Tribunal') have been passed in which Vicky Kumar, Mintu Kumar and Lucky Kumar died in a motor vehicular accident that took place on 17.10.2010 near Floating Restaurant, G.T. Road, Sirhind due to rash and negligent driving of Indica Car No.PB-10-CH-1803 driven by Varinder Kumar – respondent No.1.

The parties shall be referred to as the 'claimants' and the 'insurance company' for the sake of convenience.

FAO No.5991 of 2014

The Tribunal assessed income of the deceased at Rs.3000/- per month, deducted 1/3rd for personal expenses and adopted a multiplier of 17 to compute loss of dependency. In addition, an amount of Rs.4,500/- has been awarded for funeral expenses and loss of estate and Rs.5,000/- for loss of consortium making total compensation to the tune of Rs.4,17,500/- (rounded of to Rs.4,20,000/-) payable with interest at the rate of 9% per annum.

Counsel for the claimants has submitted that the minimum wage for an unskilled worker in October 2010 was more than Rs.3,000/-. The Tribunal has not allowed benefit of increase in income for future prospects. Compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company has supported the award with the submission that as the matter with regard to future prospects is pending consideration 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 claimants are not entitled to the said benefit.

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

The claimants raised a plea that the deceased was working with M/s Gagan Distillers Pvt. Ltd. at a salary of Rs.7,000/- per month. Counsel for the claimants has fairly informed that there is lack of evidence to substantiate plea of the claimants in this regard. However, in view of the minimum wage available to an unskilled worker in October 2010 fixed by the Government of Punjab, income of the deceased is assessed at Rs.3,700/- per month. The claimants shall be entitled to benefit of future prospects and pendency of reference 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. As the deceased was 25 years of age, the claimants are allowed benefit of future prospects to the extent of 50%. In this manner, loss of dependency comes to Rs.7,54,800/- [Rs.7,54,800/- (Rs.3700/- x 12 x 17) + Rs.3,77,400/- (50% future prospects) - Rs.3,77,400/- (1/3rd deduction towards personal expenses)].

Under conventional heads, widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium, the minor child an amount of Rs.1,00,000/- for loss of love and affection and the claimants an amount of Rs.25,000/- each for funeral expenses and loss of estate.

In view of the above, total compensation comes to Rs.10,04,800/- and the enhanced compensation is Rs.5,84,800/- (Rs.10,04,800/- - Rs.4,20,000/-), 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 minor child in the ratio of 30 : 70. The amount falling to the share of the minor child shall be deposited in a Fixed Deposit Receipt payable on his attaining the age of maturity. The interest accruing thereon shall be payable to the mother for meeting expenses on his living and education. The compensation payable to widow shall be deposited in a Fixed Deposit Receipt for a period of three years.

Disposed of accordingly.

FAO No.6036 of 2014

The Tribunal assessed income of the deceased at Rs.3000/- per month, deducted 1/4th for personal expenses and adopted a multiplier of 17 to compute loss of dependency. In addition, an amount of Rs.4,500/- has been awarded for funeral expenses and loss of estate and Rs.5,000/- for loss of consortium making total compensation to the tune of Rs.4,68,500/- rounded off to Rs.4,70,000/- payable with interest at the rate of 9% per annum.

In view of submissions made in the aforesaid appeal and decision rendered therein, income of the deceased is assessed at Rs.3,700/- per month. The claimants are allowed benefit of increase in income for future prospects to the extent of 50%. The deduction towards personal expenses would be 1/3rd in place of 1/4th. In this manner, loss of dependency comes to Rs.7,54,800/- [Rs.7,54,800/- (Rs.3700/- x 12 x 17) + Rs.3,77,400/- (50% future prospects) - Rs.3,77,400/- (1/3rd deduction towards personal expenses)].

Under conventional heads, widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium, minor child Rs.1,00,000/- and mother Rs.50,000/- towards loss of love and affection. The claimants are awarded an amount of Rs.25,000/- each for funeral expenses and loss of estate.

In view of the above, total compensation comes to Rs.10,54,800/- and the enhanced compensation is Rs.5,84,800/- (Rs.10,54,800/- - Rs.4,70,000/-), 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 minor child in the ratio of 30 : 70 except Rs.50,000/- payable to mother of the deceased. The amount falling to share of the minor child shall be deposited in a Fixed Deposit Receipt payable on his attaining the age of maturity. The interest accruing thereon shall be payable to mother of the minor for meeting expenses on his living and education. The compensation payable to widow shall be deposited in a Fixed Deposit Receipt for a period of three years.

Disposed of accordingly.

FAO No.8277 of 2014

The Tribunal assessed income of the deceased at Rs.3000/- per month, deducted 50% for personal expenses and adopted a multiplier of 18 to compute loss of dependency. In addition, an amount of Rs.4,500/- has been awarded for funeral expenses and loss of estate making total compensation to the tune of Rs.3,28,500/- rounded off to Rs.3,30,000/- payable with interest at the rate of 9% per annum.

In view of submissions made in the aforesaid appeals and decisions rendered therein, income of the deceased is assessed at Rs.3,700/- per month. The claimants are allowed benefit of increase in income for future prospects to the extent of 50%. In this manner, loss of dependency comes to Rs.5,99,400/- [Rs.7,99,200/- (Rs.3700/- x 12 x 18) + Rs.3,99,600/- (50% future prospects) - Rs.5,99,400/- (50% deduction towards personal expenses)].

The mother of the deceased is awarded an amount of Rs.50,000/- towards loss of love and affection. The claimants are awarded an amount of Rs.25,000/- each for funeral expenses and loss of estate.

In view of the above, total compensation comes to Rs.6,99,400/- and the enhanced compensation is Rs.3,69,400/- (Rs.6,99,400/- - Rs.3,30,000/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization.

Disposed of accordingly.

SEPTEMBER 28, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no