**In the High Court of Punjab and Haryana at Chandigarh**

**FAO No. 8231 of 2014(O&M)**
**Date of Decision: 16.12.2016**

**Savita Devi and others**

**---Appellants**

**versus**

**Bhura and others**

**---Respondent**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

Present: Mr.Rohit Rana, Advocate
for the appellant

Mr. Rajneesh Malhotra, Advocate
for respondent No. 3

***

**Rekha Mittal, J.**

The claimants are in appeal seeking enhancement of compensation in regard to death of Surender in a motor vehicular accident that took place on 2.1.2013.

The Motor Accidents Claims Tribunal, Faridabad (in short “the

Tribunal") assessed income of the deceased at Rs. 17,500/- per month, deducted 1/3rd for personal expenses, applied a multiplier of 17 to compute loss of dependency at Rs. 23,79,439/- payable with interest at the rate of 7.5% per annum from the date of petition till realization.

Counsel for the appellant has submitted that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50% as the deceased was less than 30 years of age. As the claimants are the widow, two minor children and parents of the deceased, admissible deduction should be 1/4th in place of 1/3rd. No compensation has been awarded under conventional heads.

Counsel for the insurance company has submitted that as the matter with regard to grant of future prospects is pending before a Larger Bench in view of reference made in ***National Insurance Company Limited vs. Pushpa and others*** in a petition for Special Leave to Appeal (Civil)-8050 of 2014, the claimants may not be allowed the said benefit. However, it is submitted that the claimants may be allowed reasonable amount under conventional heads.

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

Perusal of the award passed by the Tribunal would make it evident that the Tribunal has not allowed benefit of increase in income for future prospects in the award passed in February 2014 despite the fact that judgment ***Rajesh and others vs. Rajbir Singh and others 2013 (3) RCR (Civil) 170*** was rendered by Hon'ble the Supreme Court in the year 2013. In view of age of the deceased, appellants shall be entitled to benefit of increase in income for future prospects to the extent of 50% and the said benefit cannot be denied merely because a reference is pending before a Larger Bench till the judgment ***Rajesh and others' case (supra)*** is varied or set aside. The widow, two minor children and mother of the deceased are entitled to compensation being dependent upon income of the deceased. The number of dependents being four, admissible deduction would be $1/4^{th}$ in place of $1/3^{rd}$. In view of the above, loss of dependency comes to Rs. 17,500 x 12 x 17=Rs.35,70,000/- + 17,85,000 (50%)=Rs.53,55,000 – 13,38,750 ($1/4^{th}$) =**Rs.40,16,250/-**.

Under conventional heads, an amount of **Rs. 1,00,000/-** for loss of consortium, **Rs. 1,50,000/**- in equal share to the minor children, **Rs. 50,000/-** to the mother for loss of love and affection and **Rs. 25,000/**- each for expenditure on funeral and loss of estate is awarded. The total compensation comes to **Rs. 43,66,250/-** and the enhanced compensation is **Rs.19,86,811/-** payable with interest at the rate of 7.5% per annum from the date of petition till realization. The additional amount shall be shared by minor children of the deceased in equal share except the amount of consortium payable to the widow and a sum of Rs. 50,000/- payable to the mother for loss of love and affection. The amount falling to share of the children shall be deposited in a fixed deposit receipt in a nationalized bank till they attain the age of majority. The interest accruing on FDRs shall be payable to widow of the deceased for meeting expense on their living and education.

The appeal is partly allowed in the aforesaid terms.

**(Rekha Mittal)**
**Judge**

**16.12.2016**
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No