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

FAO No.3650 of 2001(O&M)

Date of decision: 23.8.2017

Kartar Singh and another …..Appellants

VERSUS

Baljit Singh and others .....Respondents

*****

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Arun Bansal, Advocate for the appellants.

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

*****

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Bathinda (in short 'the Tribunal') in regard to death of Kewal Singh in a motor vehicular accident that took place on 15.04.1996.

The Tribunal assessed income of the deceased at Rs.2100/- per month, deducted 1/3rd towards personal expenses and further reduced loss of dependency to the extent of 40% more and determined loss of dependency at Rs.840/- per month. After applying a multiplier of 16, loss of dependency was computed at Rs.1,61,280/-. In addition, an amount of Rs.4,720/- on account of funeral expenses has been awarded making total compensation to Rs.1,66,000/-, payable with interest at the rate of 10% per annum from the date of award till payment. However, in view of findings on issue No.4, insurance company was held entitled to recover the amount of compensation after satisfying the award towards the claimants.

Counsel for the appellants would submit that as the deceased was 22 years old, appropriate multiplier would be 18 and deduction for personal expenses cannot be more than 50%. The claimants are entitled to benefit of increase in income for future prospects and adequate compensation under the conventional heads.

Counsel representing the insurance company, on the contrary, would urge that multiplier is to be adopted as per age of parents of the deceased and not as per age of the deceased himself. The benefit of future prospects cannot be allowed as the matter with regard to grant of future prospects is pending 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.**

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

At the outset, it is pertinent to mention that respondents No.1 and 2, driver and owner respectively of the offending vehicle did not contest the claim before the Court below as they opted to be ex parte. Under the circumstances, service of respondents no.1 and 2 is dispensed with.

The Tribunal has assessed income of the deceased at Rs.2,100/- per month by taking him to be a driver. As a matter of fact, the deceased was driving Jeep No.HIM-9490 when the unfortunate occurrence took place on 15.04.1996 at about 9 AM. In view of wage of a skilled worker fixed by the State of Punjab and available in the year 1996, income of the deceased is assessed at Rs.1900/- per month. The Tribunal has not allowed benefit of increase in income for future prospects. The deceased was a young energetic person and doing work of driving. There is nothing on record suggestive of the fact that the deceased was suffering from any disability to affect his capacity to work. It is difficult to accept to reason that had the deceased remained alive, he would have stagnated at income of Rs.1900/-. The mere fact that a reference is pending before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny benefit of future prospects till the judgment of Hon'ble the Supreme Court **Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170** is varied or set aside.

The Tribunal has adopted a multiplier of 16 by holding that it is just and fair to apply the said multiplier. In view of enunciation laid down by Hon'ble the Supreme Court in **Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77** and **Munna Lal Jain and others versus Vipin Kumar Sharma and others, 2015(3) RCR (Civil) 447**, admissible multiplier would be 18. In this manner, loss of dependency comes to Rs.3,07,800/- [Rs.4,10,400/- (Rs.1900/- x 12 x 18) + Rs.2,05,200/- (50% towards future prospects) – Rs.3,07,800/- (50% deduction towards personal expenses)].

Under the conventional heads, the Tribunal has awarded an amount of Rs.4,720/- on account of funeral expenses. The claimants shall be entitled to an amount of Rs.10,000/- for funeral expenses/last rites and Rs.25,000/- for loss of love and affection to the mother.

In view of the above, total compensation comes to Rs.3,42,800/- and the enhanced compensation is Rs.1,76,800/- (Rs.3,42,800/- - Rs.1,66,000/-), which shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable exclusively to mother of the deceased. It is clarified that findings of the

Tribunal with regard to recovery rights to the insurance company shall remain intact.

The appeal is partly allowed in the aforesaid terms.

AUGUST 23, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no