IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1104 of 2003 (O&M)
Date of Decision: 13.11.2017

Smt. Kamalpreet Kaur and others ... Appellants

Versus

Collector Chandigarh, Estate Office,
Sector-17, Chandigarh and others ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vipul Sharma, Advocate,
for Mr. Nitin Mittal, Advocate,
for the claimants-appellants.

Ms. Sonia Sharma, Advocate,
for the respondent-CTU, UT Chandigarh.

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RAJIV NARAIN RAINA, J.(Oral)

1. Manjit Singh died in a road accident on August 04, 2000. He was 38 yeas old. He was self-employed in business of repairs of Juicers and Mixers from his residence-cum-shop. The claimants were the widow, two minor children and mother of late Manjit Singh. Two minor children of pre-deceased brother were joined as claimants but since the grandfather was alive it could not be said that they were dependent on the income of the deceased. The income of the deceased has been assessed by the Motor Accident Claims Tribunal, Ambala at ₹2400/- per month making annual income of ₹28,800/-.

2. A tabulation sheet has been handed over by the learned counsel

for the appellants showing what was assessed by MACT and what is proposed by him in view of the proposed law in Special Leave Petition (Civil) No.25590 of 2014, *National Insurance Company Limited v. Pranay Sethi and others* and by keeping in view the principles in Smt. Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 2 SCC (Civil) 770. He agrees that the income should be maintained at ₹2400/- per month which is not opposed by the counsel for the Chandigarh Transport Undertaking which was owner of the offending bus. The Tribunal has applied 1/3rd deduction (₹9600) reducing the annual income to ₹19,200/- while in view of *Sarla Verma* 1/4th deduction was deserved (₹10,080/-). One fourth deduction is justified for the widow, two children and the mother, the father being excluded. The remaining respondents are not entitled to compensation. Accordingly, the reduction should not be ₹19,200/- but ₹10,080/-. Before the deduction is applied 40% of the income towards future prospects has to be applied which makes a sum of ₹11,520/- to which ₹28,800/- has to be added which makes for a sum of ₹40,320/-. Applying the correct multiplier of 15 (incorrectly applied by the Tribunal at 16) the compensation works out to ₹4,53,600/- to this amount is added the conventional heads for funeral expenses, loss of consortium and loss of estate at consolidated ₹70,000/- (₹15,000/- + ₹40,000/- + ₹15000/-) (*Pranay Sethi case*) increasing the total payable compensation to ₹5,23,600/- as against ₹3,17,200/- awarded by the Tribunal. This is because the Tribunal had awarded only ₹5000/- towards funeral expenses and similar amount towards consortium and no compensation for loss of estate.

3. By this process of assessment of compensation under the

available conventional heads the claimants are held entitled to ₹5,23,600/- less awarded ₹3,17,200/- in case deposited before the Tribunal/Executing Court and disbursed to the claimants. Interest is maintained at 9% as awarded from the date of claim application till realization.

4. As a result, the appeal is partially allowed. The award is modified to be read in terms of this order. The Chandigarh Transport Undertaking shall calculate the amount as per order and deposit the enhanced compensation with interest before the Motor Accident Claims Tribunal, Ambala/Executing Court within eight weeks from the date of receipt of certified copy of this order. The Tribunal shall then proceed to disburse the amount to the claimants as per procedure and without delay.

(RAJIV NARAIN RAINA)
JUDGE

13.11.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*