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

FAO No.1425 of 2010(O&M)

Date of decision: 21.8.2017

Baljinder Kaur and others …..Appellants

VERSUS

Inderjit Singh and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vikram Bali, Advocate for the appellants.

Mr. Nimanyu Gautam, Advocate for respondent No.1.

Mr. Vinod Chaudhari, Advocate for respondent No.2.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panchkula (in short 'the Tribunal') in regard to death of Malkiat Kumar in a motor vehicular accident that took place on 06.01.2008.

The Tribunal assessed income of the deceased at Rs.4000/- per month, deducted 1/3rd towards personal expenses and applied a multiplier of 18 to compute loss of dependency at Rs.6,04,000/-. In addition, an amount of Rs.5000/- for loss of consortium to the widow and Rs.2000/- for funeral expenses has been awarded making total compensation to Rs.6,12,000/- (result of mistake in calculation as the total comes to Rs.6,11,000/-), payable with interest at the rate of 6% per annum from the date of petition till realization.

Counsel for the appellant has submitted that application for compensation was filed by the widow, two minor children and parents of deceased Malkiat Kumar, held to be dependent upon his earning, therefore, admissible deduction would be 1/4th. The Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50% in the light of judgment of Hon'ble the Supreme Court **Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170**. Compensation awarded under conventional heads needs re-look and enhancement.

Counsel representing the insurance company has supported the award with the submission that the case pertains to the year 2008 and the Tribunal has assessed just and reasonable compensation to make good the loss suffered by the victim family.

Counsel representing respondent No.1 has endorsed the submissions made by counsel for the insurance company.

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

Counsel for the respondents are not in a position to controvert the submission of the appellant that admissible deduction in the circumstances of the present case would be 1/4th in the light 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.** The Tribunal has not extended benefit of increase in income for future prospects. The deceased was a young boy aged less than 30 years. He left behind the family consisting of his widow, two minor children and parents. There is nothing on record suggestive of the fact that the deceased was suffering from any disability rendering him unable to work to the maximum of his capacity to earn livelihood for himself and his family.

Under the circumstances, there is no justification to deny benefit of increase in income for future prospects particularly in the circumstances that the State Government revises minimum wages at interval of a quarter or six months. The mere fact that a reference 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,** is not sufficient to deny benefit of future prospects to the claimants**.** After extending benefit of future prospects to the extent of 50% and allowing deduction of 1/4th but applying admissible multiplier of 17, loss of dependency comes to Rs.9,18,000/- (Rs.4500/- x 12 x 17).

Under conventional heads, an amount of Rs.1,00,000/- for loss of consortium to the widow, Rs.1,50,000/- for loss of love and affection to the minor children, Rs.50,000/- for loss of love and affection to the mother, Rs.25,000/- for expenses on funeral/last rites and a sum of Rs.25,000/- for loss of estate is awarded.

In view of the above, total compensation comes to Rs.12,68,000/- and the enhanced compensation is Rs.6,56,000/- (Rs.12,68,000/- - Rs.6,12,000/-), which shall carry interest at the rate of 7.5% per annum from the date of petition till realization, to be shared by the widow and minor children in equal proportion except compensation awarded for loss of love and affection to the mother.

The appeal is partly allowed in the aforesaid terms.

AUGUST 21, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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