IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2757 of 2012 (O&M)
Date of decision:- May 25, 2017

SMT. ARCHANA GUPTA AND OTHERS ....APPELLANTS..

VS.

GURMEET SINGH AND OTHERS ....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Akashdeep Singh, Advocate,
for the appellants.

Mr. Rajbir Singh, Advocate,
for respondent No.3-Insurance Company.

****

JASPAL SINGH, J.

Feeling aggrieved against the award dated 24.01.2012, passed by Motor Accident Claims Tribunal, Rohtak (for short, "Tribunal") in MACT No.84 of 2011, captioned as ***"Smt. Archana Gupta and others v. Gurmeet Singh and others"*** under Section 166 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants were awarded compensation to the tune of ₹40,61,000/-, on account of death of Sanjeev Kumar in a vehicular accident occurred on 14.12.2010 in the jurisdiction of Police Station, Civil Lines, Rohtak, they have preferred the instant appeal for enhancement thereof.

2. Concededly, the actual monthly salary of the deceased was assessed as ₹38,283/- say ₹38,000/- per month by ld. Tribunal and the appellants-claimants were granted the compensation to the tune of

₹40,61,000/-. By adding 30% towards future prospects, the per month salary came to ₹49,400/- or ₹5,92,800/- per annum. Since, deceased was an employee of higher income group, the income tax deduction has been taken as 30% of the salary. After income tax deduction, the annual income of the deceased was worked out to ₹4,14,960/- per annum. After deducting 1/4th of the expenses which deceased would have incurred towards maintaining himself had he been alive, the annual dependency was worked out to ₹3,11,220/-. The multiplier of 13 was applied taking into consideration the age of the deceased to be 45 years and 12 days at the time of his death. Thus, total loss of dependency was worked out to ₹40,45,860/- say ₹40,46,000/-. In addition to it, a sum of ₹10,000/- was awarded on account of loss of consortium and ₹5000/- was awarded on account of funeral expenses totalling ₹40,61,000/-.

3. Thus, it is evident that no amount of compensation was paid on account of loss of love and affection whereas the amount of compensation awarded on account of loss of consortium and funeral expenses is unjust and inadequate, especially, in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another" 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***"Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, claimants are entitled for compensation on account of loss of love and affection to the tune of ₹1,00,000/-. Similarly, appellants-claimants No.1 is also entitled for a sum of ₹90,000/- in addition to a sum of ₹10,000/- already awarded on account of loss of consortium. In addition to it, appellants-claimants are also entitled

to a sum of ₹25,000/- including a sum of ₹5000/- already awarded.

4. Similarly, the income of the deceased has been assessed by ld. Tribunal to the tune of ₹38,000/- per month but the tax has not been deducted from the income being earned by the deceased. The payment of income tax is the liability of the deceased and the income tax is liable to be deducted from the total salary of the deceased while assessing the dependency. Thus, the income of the deceased for the assessment of the dependency is deducted to the extent of 10% on account of income tax, which the deceased was legally liable to pay. Thus, after deducting 10% of the amount (₹59,280/-), the dependency works out to ₹5,33,520/-. Ld. Tribunal has applied the multiplier of 13 keeping in view the age of the deceased to be 45 years but deceased is only 12 days more than 45 years, thus, it would be just and proper to apply the multiplier of 14 instead of 13 and in this way, total dependency works out to ₹74,69,280/-(533520x14). Thus, the total amount of compensation works out to ₹76,94,280/- to which, the claimants are entitled on account of death of Sanjeev Kumar. Thus, the claimants shall be entitled to enhanced compensation to the tune of ₹36,33,280/- i.e. an amount in addition to the compensation of ₹40,61,000/- already awarded by the Tribunal.

5. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹36,33,280/- in addition to what has already been awarded. Respondent No.3- i.e. Insurance Company is directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it

would entail interest @ ₹7.5% per annum from the date of filing of the clam petition before the Tribunal. The enhanced amount shall be shared and dealt with as earlier ordered by the ld. Tribunal vide impugned award.

6. Parties to bear their own cost.

May 25, 2017 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned: Yes

Whether reportable: Yes/No