IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1470 of 2014(O&M)

Date of decision: 4.9.2017

Manjit Kaur and others ….Appellants

VERSUS

Sulakhan Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rajeev Dev Sharma, Advocate for the appellants.

None for respondents No.1 and 2.

Ms. Anamika Mehra, Advocate for respondent No.3

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REKHA MITTAL, J.(Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Pathankot (in short 'the Tribunal') in regard to death of Guljari Lal in a motor vehicular accident that took place on 30.04.2007.

The Tribunal assessed income of the deceased at Rs.14,236/-, deducted 1/3rd for his personal and living expenses, adopted a multiplier of 11 to compute loss of dependency to the extent of Rs.12,52,768/- payable with interest at the rate of 9% per annum in case the respondents fail to pay the amount within a period of one month from the date of award.

Counsel for the appellants has submitted that the Tribunal has not extended benefit of increase in income for future prospects to the extent of 15%. Application for compensation was filed by the widowed daughter in law, her minor children and minor daughter of late Guljari Lal, held to be dependent upon deceased Guljari Lal but the Tribunal has allowed deduction to the extent of 1/3rd in place of 1/4th. Another submission made by counsel is that the Tribunal has not allowed any compensation under conventional heads. The claimants have been deprived of pendente lite interest by extending the concession to the respondents to pay the amount within a period of one month without any liability of interest.

Counsel representing the insurance company has supported the award with the submission that adequate compensation has been awarded by the Tribunal.

I have heard counsel for the parties, perused the paper-book particularly the award dated 30.03.2015.

Guljari Lal – deceased was an employee of Northern Railway, Pathankot. The Tribunal has assessed his income on the basis of statement of Gulshan Lal, an official from the Northern Railway, Pathankot. Counsel for the claimants has not disputed that Guljari Lal was more than 50 years old at the time of death. 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,** the appellants cannot press their claim for increase in income qua future prospects. The Tribunal has rightly disallowed any such request.

This brings the Court to the issue of interest on the amount of compensation assessed by the Tribunal. The Tribunal has awarded interest at the rate of 9% per annum subject to a condition that interest would be payable only in case the respondents therein failed to pay compensation within one month from the date of award. The Tribunal has not assigned any reason for denying pendente lite interest to the claimants or allowing a concession in favour of the respondents. The petition for compensation was filed on 02.09.2009 and the occurrence pertains to 30.04.2007. The petition was finally decided by the Tribunal on 30.03.2013. There is nothing on record suggestive of the fact that delay in conclusion of the proceedings can be attributed to the claimants. In the given facts and circumstances, there is no justification to deny pendente lite interest to the claimants who have been held entitled to get compensation from the date of award. That being so, the claimants shall be entitled to interest at the rate of 7.5% per annum on the amount assessed by the Tribunal from the date of petition till realization disregarding whether the respondents therein paid the amount within one month or otherwise.

The application for compensation was filed by the widowed daughter in law, grand-children and daughter of deceased, held to be entitled to get compensation. In the light of enunciation in **Smt. Sarla Verma's case** (supra), admissible deduction would be $1/4^{th}$. In this manner, loss of dependency comes to Rs.14,09,364/- [Rs.18,79,152/- (Rs.14236/- x 12 x 11) - Rs.4,69,788/- ($1/4^{th}$ deduction towards personal expenses)].

Under conventional heads, the minor claimants shall be entitled to an amount of Rs.2,50,000/- for loss of love and affection of their grand-father and father. The claimants are awarded an amount of Rs.25,000/- for expenses on funeral and another sum of Rs.25,000/- for loss of estate.

In view of the above, total compensation is Rs.17,09,364/- and additional compensation is Rs.4,56,596/- (Rs.17,09,364/- -

Rs.12,52,768/-), which shall carry interest at the rate of 7.5% per annum from the date of petition till realization, to be shared by the grand-children and daughter of the deceased in the ratio 50:50. The amount falling to share of the minors shall be deposited in Fixed Deposit Receipts till they attain the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

SEPTEMBER 4, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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