IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1371 of 2015(O&M)

Date of decision: 7.12.2017

Krishna and others …..Appellants

VERSUS

Jai Pal and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. M.S. Chahal, Advocate for the appellants.

Respondent No.1 already ex parte.

None for respondent No.2.

Mr. Ashwani Talwar, Advocate for respondents No.3 and 4.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Bhiwani (in short 'the Tribunal') in regard to death of Roshan Lal in a motor vehicular accident that took place on 24.11.2010.

The Tribunal has awarded compensation to the tune of Rs.10,02,776/- detailed hereunder:-

Monthly salary of the deceased	Rs.16,798/-
Deduction for personal expenses	$1/4^{th}$
Multiplier	11 (multiplier of 2 on annual dependency of Rs.1,51,188/- and 9 on Rs.75,600/-)
Total loss of dependency	Rs.9,82,776/-

Funeral expenses, loss of consortium
and loss of estate Rs.20,000/-

Counsel for the claimants would urge that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 15% available in the light of latest enunciation by Hon'ble the Supreme Court in **SLP (Civil) No.25590 of 2014 titled National Insurance Company Ltd. Vs. Pranay Sethi and others, decided on 31.10.2017**. It is further argued that the Tribunal has wrongly applied split multiplier that has been rejected by Hon'ble the Apex Court in **Puttamma and others vs K.L. Narayana Reddy and another, 2014(1) R.C.R. (Civil) 443**. Adequate compensation may be allowed under conventional heads in the light of judgment in **Pranay Sethi's case** (supra).

Counsel representing the insurance company, on the contrary, would urge that as family of the deceased shall be entitled to financial assistance under the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006 (in short 'the Rules of 2006'), same is amenable to deduction out of compensation assessed in favour of the claimants in the light of judgment of Hon'ble the Supreme Court of India **Reliance General Insurance Co. Ltd. Vs. Shashi Sharma, 2016(4) RCR (Civil) 569**.

I have heard counsel for the parties, perused the paper-book particularly the award dated 18.02.2014 passed by the Tribunal.

There is no dispute that the deceased was a regular employee of Public Health Department, State of Haryana at a salary of Rs.16,798/- per month. He was born on 09.07.1954 and passed away on 25.11.2010, therefore, the deceased was more than 56 years old at the time of occurrence. In the light of latest judgment in **Pranay Sethi's case** (supra), claimants are entitled to increase in income for future prospects to the extent of 15%. The split multiplier allowed by the Tribunal cannot be affirmed in view of the judgment of Hon'ble the Supreme Court in **Puttamma and others case** (supra). As the deceased was in the age bracket of 56-60 years, admissible multiplier in the light of judgment of Hon'ble the Supreme Court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77** is 9. In this manner, loss of dependency comes to Rs.15,64,734/- [Rs.18,14,184/- (Rs.16,798 x 12 x 9) + Rs.2,72,128/- (15% future prospects) – Rs.5,21,578/- (1/4th deduction towards personal expenses).

The claimants shall be entitled to following compensation under conventional heads in the light of judgment in **Pranay Sethi's case** (supra):-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses/last rites	Rs.15,000/-
Loss of estate	Rs.15,000/-

Counsel for the claimants has not disputed that family of the deceased shall be entitled to compassionate assistance under the Rules of 2006 w.e.f. 24.11.2010 to 31.07.2012 at the rate of Rs.16,798/- per month. There is no denial that job of the deceased was pensionable. Perusal of the judgment in **Shashi Sharma's case** (supra), would reveal that Hon'ble the Apex Court has not adverted to the issue that had the Rules extending assistance to family of a deceased employee been not in existence, family would have been entitled to pension to the extent of 50% of the last drawn pay. As per the settled position in law, the pensionary benefits available to family of a deceased employee are not amenable to deduction for computing loss of dependency. Under the circumstances, in case deduction to the extent of Rs.3,35,960/- is allowed, the Rules of 2006 would operate prejudicially against the claimants causing loss of pensionary benefits to which family of deceased was entitled from the date of death till the age of superannuation which can neither be spirit of the Rules nor of the judgment of Hon'ble the Supreme Court as the provisions of the Motor Vehicles Act providing for compensation to the victim family is a benevolent legislation framed with an avowed social object to achieve. In the given scenario, only 50% of the amount available to family of the deceased under the Rules of 2006 is amenable to deduction.

In view of the above, total compensation payable to the claimants, after deducting Rs.1,67,980/- comes to Rs.14,66,754/- and the additional amount is Rs.4,63,978/- (Rs.14,66,754/- - Rs.10,02,776/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to widow of the deceased. The same shall be invested in a Fixed Deposit Receipt for a period of three years.

The appeal is partly allowed in the aforesaid terms.

DECEMBER 7, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no