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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-3941-2013 (O&M)

Date of decision : 21.12.2017

Smt. Bhateri and others

... Appellant(s)

Versus

Mukesh Kumar and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ram Chander, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent No.3/Insurance Company.

AMIT RAWAL, J. (ORAL)

The appeal has been preferred by the legal representatives of the deceased-Virender Kumar, who died in a motor accident occurred on 26.07.2011 at about 4.30 p.m., for enhancement of compensation against the award passed by the Tribunal, whereby a compensation of ₹11,40,000/- along with interest @ 8% from the date of institution of the claim petition till its realization, had been awarded.

Mr. Ram Chander, learned counsel appearing on behalf of the appellants-claimants submits that the deceased was earning ₹10,000/- per month from his job while working as Driver and Mechanic in Maruti Sazuki Udhyog Ltd., at Gurgaon, but the Tribunal took the income of the deceased as ₹7,000/- and applied a deduction of 1/3rd towards his personal expenses and awarded the compensation to the tune of ₹11,40,000/- after applying the multiplier of '18', which is on lower side. Moreover, no increase was made in the salary towards future prospects, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the

Insurance Company submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the compensation to the tune of ₹11,40,000/- is on lower side and accordingly, I take the income of the deceased as ₹7,000/-, but provide 40% future prospects. I will make a deduction of 1/3rd towards his personal expenses and apply a multiplier of '17' instead of 18 as has been taken by the Tribunal to assess the loss of dependency as ₹13,32,936/-. I will further add ₹70,000/- towards conventional heads i.e. loss of estate, funeral expenses and loss of consortium as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in *SLP (Civil) No.25590 of 2014* titled as *“National Insurance Company Ltd. V/s Pranay Sethi and others”*.

In all the compensation payable shall be ₹14,02,936/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till its realization. The enhanced amount shall be distributed amongst the appellants-claimants in equal ratio. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

21.12.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes**

Whether Reportable **No**