IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2539 of 2015(O&M)

Date of decision: 27.7.2017

Kanta Devi and others .....Appellants

VERSUS

Krishan Kumar and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. A.K. Yadav, Advocate for the appellants.

Mr. Lalit Garg, 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, Rewari (in short 'the Tribunal') in regard to death of Narender Singh in a motor vehicular accident that took place on 28.07.2012.

The Tribunal assessed income of the deceased at Rs.5,300/- per month, deducted 1/4th towards personal and living expenses, adopted a multiplier of 18 to compute loss of dependency to the tune of Rs.8,58,600/- In addition, following compensation has been awarded under conventional heads and for medical expenses:-

1.	Treatment Expenses	Rs.1,71,985/-
2.	Special diet & attendant	Nil
3.	Loss of consortium	Rs.10,000/-
4.	Loss of estate	Rs.10,000/-
5.	Expenses of last rites & transportation	Rs.10,000/-
6.	Loss of love and affection	Rs.10,000/-

7.	Total dependency	Rs.8,58,600/-
	Total	**Rs.10,70,585/-**

Counsel for the appellant has submitted that 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 in the light of judgments **Rajesh and others case** (supra) and **Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (2) RCR (Civil) 945.**

Counsel representing the insurance company has seriously contested claim of the appellants for increase in income towards future prospects on the premise that the matter with regard to future prospects is pending consideration 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**.

In the alternative, it is argued that in case benefit of future prospects is extended to the appellants, amount representing future prospects may be deposited in a Fixed Deposit Receipt payable subject to outcome of reference by the Larger Bench. He has further submitted that the Tribunal has assessed just and reasonable compensation warranting no interference by this Court.

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

The Tribunal has assessed income of the deceased at Rs.5,300/- per month by considering him to be a skilled worker. Had the deceased remained alive, he would not have stagnated at that income throughout his life more particularly in the circumstances that he has left behind family consisting of his widow, two minor children aged 3 years and 3 months and the parents. The mere fact that a reference is pending before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny the benefit of future prospects till the judgment in **Rajesh and others case** (supra) is varied or set aside. For this reason, contention of the insurance company to restrain release of the amount of future prospects is also not tenable.

The deceased was 25 years of age. After extending benefit of future prospects to the extent of 50%, loss of dependency comes to Rs.12,87,900/-[Rs.11,44,800/- (Rs.5,300 x 12 x 18) + Rs.5,72,400/- (50% future prospects) – Rs.4,29,300 /- (1/4th deduction towards personal expenses)].

Under conventional heads, the claimants shall be entitled to compensation as under:-

1.	Loss of consortium to the widow	Rs.1,00,000/-
2.	Loss of love and affection to the children	Rs.1,50,000/- (to be shared in equal)
3.	Loss of love and affection to mother	Rs.50,000/-
4.	Expenses on funeral	Rs.25,000/-
5.	Loss of estate	Rs.25,000/-

The compensation of Rs.1,71,985/- awarded by the Tribunal towards expenses on treatment of the injured/victim (since deceased) is ordered to be affirmed.

In view of the above, total compensation comes to Rs.18,09,885/- and the enhanced compensation is Rs.7,39,300/- (Rs.18,09,885/- - Rs.10,70,585/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to children of the deceased in equal share except an amount of Rs.1,00,000/- towards consortium to the widow and Rs.50,000/- for loss of love and affection to the mother. The amount falling to share of the children shall be deposited in a Fixed Deposit Receipt for a period of 3 years or till they attain the age of majority, whichever is later. The claimants shall not be entitled to raise any loan against the Fixed Deposit Receipts.

The appeal is partly allowed in the aforesaid terms.

JULY 27, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no