IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5460 of 2015(O&M)

Date of decision: 14.11.2017

Renu Bala @ Renu Sharma and others …..Appellants

VERSUS

Satnam Singh and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vivek Suri, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for the respondent-Insurance Company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sangrur (in short 'the Tribunal') in regard to death of Pardeep Kumar @ Pardeep Sharma in a motor vehicular accident that took place on 07.05.2014.

The Tribunal awarded compensation to the tune of Rs.46,20,500/-, detailed hereunder:-

Monthly income of deceased	Rs.33,300/-
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	Rs.44,95,500/-
Loss of consortium to the widow	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-

Counsel for the appellants would contend that though the Tribunal has taken note of documents Ex.C3 and C4 proved on record by widow of the deceased but has wrongly assessed loss of dependency at Rs.24,995/- per month. The Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50% as the deceased was less than 40 years of age and a regular employee of the Police Department in the State of Punjab.

Counsel representing the insurance company, on the other hand, would contend that the Tribunal has not taken into account liability of the deceased to pay income tax. Compensation under conventional heads allowed by the Tribunal needs modification 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**.

Perusal of the documents Ex.C3 and C4 would reveal that in the certificate Ex.C3, gross emoluments of the deceased with basic pay of Rs.14,760/- is shown to be Rs.34,264/- out of which an amount of Rs.4,804/- was deducted towards GPF, GIS, LIC etc.. In pay slip for the month of April 2014 Ex.C4 basic pay is shown at Rs.11,130/- and total pay Rs.33,304/- with deduction of Rs.4,804/- under the same heads as reflected in Ex.C3. That being so, loss of dependency would be assessed on the basis of pay slip for the month of April 2014. The deductions made from salary of the deceased cannot be taken out of consideration for assessing loss of dependency. After deducting liability to pay income tax to the tune of Rs.14,965/- per annum, annual dependency comes to Rs.3,84,683/-. The claimants shall be entitled to addition in income for future prospects to the extent of 50%. The multiplier adopted by the Tribunal is affirmed.

The Tribunal has allowed deduction to the extent of 1/4th for personal and living expenses of the deceased. The application for compensation was filed by the widow, minor daughter and parents of the deceased. Renu Bala widow of the deceased appeared in the witness box and tendered into evidence affidavit Ex.PW1/A. She has deposed that all the claimants were dependent upon income of the deceased. There is nothing specifically mentioned by Renu Bala as to why father of the deceased aged about 64 years was dependent upon income of the deceased. There is no material on record suggestive of the fact that father of the deceased was suffering from any ailment/disability to render him dependent upon his son. Under the circumstances, admissible deduction for personal expenses would be 1/3rd. In this manner, loss of dependency comes to Rs.57,70,245/-[Rs.57,70,245/- (Rs.384683 x 15) + Rs.28,85,122/- (50% towards future prospects – Rs.28,85,122/- (1/3rd deduction towards personal expenses)].

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

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

In view of the above, total compensation comes to Rs.58,40,245/- and the enhanced compensation is Rs.12,19,745/-

(Rs.58,40,245/- - Rs. 46,20,500/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to the widow and daughter of the deceased.

The appeal is disposed of in the aforesaid terms.

NOVEMBER 14, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no