In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 13.12.2017

FAO No. 9913 of 2014(O&M)

Rupinder Kaur and others

---Appellants

versus

Davinder @ Balinder and others

---Respondents

FAO No. 10316 of 2014(O&M)

Simarjit Kaur and others

---Appellants

versus

Davinder @ Balinder and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Shailya Sharma, Advocate
for Ms. Sonia G.Singh, Advocate
for the appellants in both the appeals

Mr. Punit Jain, Advocate,
for the insurance company in both the appeals

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Rekha Mittal, J.

This order will dispose of FAO Nos. 9913 and 10316 of 2014 as these have emerged out of the same award dated 8.7.2014 passed by the Motor Accidents Claims Tribunal, Karnal (in short “the Tribunal”) whereby compensation has been awarded in regard to death of Amarjit Singh and Balvinder Singh in a motor vehicular accident that took place on 18.12.2011.

C.M.No. 27359-CII of 2014 in FAO-9913 of 2014

Prayer in this application is for condoning delay of 36 days in filing the appeal.

In view of averments made in the application and arguments advanced by counsel for the applicants, application is allowed and delay of 36 days in filing the appeal is condoned.

Disposed of accordingly.

FAO No. 9913 of 2014

The Tribunal has assessed compensation to the tune of Rs. 8,13,500/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4500/-
Addition for future prospects	50%
Deduction for personal expenses	½
Multiplier	17
Loss of dependency	6,88,500/- (3375 x 12 x17)
Loss of consortium	Rs. 1,00,000/-
Transportation and funeral expenses	Rs. 25,000/-

Counsel for the claimants would urge that the Tribunal has assessed income of the deceased by treating him as a labourer but minimum wage of an unskilled worker at the relevant time was more than Rs. 4500/- per month. The Tribunal has wrongly deducted 50% for personal expenses of the deceased as the deceased left behind his widow, widowed mother and a brother. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, has submitted that the Tribunal has wrongly allowed benefit of increase in income to the extent of 50% as against 40% allowed by the Constitution Bench of the Apex Court in the latest judgment **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.** Compensation awarded under conventional heads needs reduction.

The Tribunal has assessed income of the deceased at Rs. 4500/- per month but the minimum wage with effect from 1.7.2011was Rs. 4643/-. Accordingly, income of the deceased is assessed at Rs. 4650/- per month. The claimants shall be entitled to increase in income for future prospects to the extent of 40% in the light of judgment in **Pranay Sethi and others' case (supra).** However, deduction for personal expenses would be 1/3rd as the deceased left behind his widow and widowed mother. The multiplier adopted by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs. 4650 x12 x17 = 9,48,600 + 3,79,440(40%)=13,28,040 – 4,42,680 (1/3rd)= **Rs.8,85,360/-**

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court of India **Pranay Sethi and others' case (supra)**:-

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

The total compensation comes to **Rs. 9,55,360/-** and the additional amount is **Rs. 1,41,860/-** (9,55,360 – 8,13,500), payable with interest at the rate of 7.5% from the date of petition till realization to be shared by the widow and mother of the deceased in equal proportion.

The appeal is partly allowed in the aforesaid terms.

FAO-10316 of 2014

With regard to death of Balvinder Singh, Tribunal has awarded

compensation to the tune of Rs. 7,05,260/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4500/-
Addition for future prospects	30%
Deduction for personal expenses	½
Multiplier	13
Loss of consortium	Rs. 1,00,000/-
Transportation and funeral expenses	Rs. 25,000/-
Medical expenses(i)Medicines (ii)Hospital charges	Rs. 3597 + 1,20,363=1,23,960/-

In view of discussion made hereinbefore while disposing of FAO -9913 of 2014, income of the deceased is assessed at Rs. 4650/- per month. The claimants shall be entitled to increase in income for future prospects to the extent of 25%. However, deduction for personal expenses would be 1/3rd. The multiplier allowed by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs. 4650 x 12 x13 = 7,25,400 + 1,81,350(25%)=9,06,750 - 3,02,250(1/3rd)=**Rs.6,04,500/-.**

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court of India in **Pranay Sethi and others' case (supra)**:-

Loss of consortium to widow **Rs. 40,000/-**

Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Compensation for medical expenses allowed by the Tribunal to the tune of **Rs. 1,23,960** is affirmed. The total compensation comes to **Rs.7,98,460/-** and the additional amount is **Rs.93,200/-** (7,98,460-705260), payable with interest at the rate of 7.5% per annum from the date of petition till realization to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

13.12.2017
PARAMJIT

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No