**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.2687 of 2017 (O&M) &
XOBJC No.111-CII of 2017**

Date of decision: 28.8.2017

Oriental Insurance Co. Ltd. …..Appellant

VERSUS

Maninder Kaur and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Navin Kapur, Advocate for the appellant.

Mr. Anil Kumar Spehia, Advocate for respondent No.1 to 3/cross objectors.

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REKHA MITTAL, J.

This order shall dispose of FAO No.2687 of 2017 and cross objections No.111-CII of 2017 as these have emerged out of the same award dated 19.12.2016 passed by the Motor Accidents Claims Tribunal, Jalandhar (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Lakhwinder Singh in a motor vehicular accident that took place on 02.10.2015.

The Tribunal assessed loss of annual dependency at Rs.3,84,538/- and applied a multiplier of 11 to calculate an amount of Rs.42,29,918/- payable to the claimants besides compensation awarded under conventional heads.

The parties shall be referred to as the 'insurance company' and 'the claimants' for brevity.

Counsel for the insurance company has submitted that the deceased was more than 51 years old at the time of death. Had he remained alive, he would have been in active service maximum for another 7 years, therefore, the Tribunal has committed an error by adopting multiplier of 11 and granting the claimants more money vis-a-vis what the deceased or his family would have received till his superannuation.

Counsel for the claimants, on the contrary, has supported the multiplier of 11, allowed 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**. However, it has been argued that the Tribunal has not allowed benefit of increase in income for future prospects in the light of judgment of Hon'ble the Supreme Court **Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170**. In addition, it is argued that the Tribunal has allowed payment of interest only in the eventuality of respondents No.1 to 6 therein failing to pay compensation within two months from the date of award. It is argued that as the claimants have been held entitled to compensation from the date of petition, there is no justification for the Tribunal to deny them pendente lite interest.

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

Hon'ble the Supreme Court in **Puttamma and others vs K.L. Narayana Reddy and another, 2014(1) R.C.R. (Civil) 443,** set aside the judgment of the High Court adopting a split multiplier method and further held that in absence of specific reasons and evidence on record, the Tribunal or the Court should not apply split multiplier in routine course and should apply multiplier as per decision of this Court in the case of

Smt. Sarla Verma's case (supra). In **Sarladevi and others vs Divisional Manager, M/s Royal Sundaram Alliance Insurance Company Limited and another, 2014 ACJ (SC) 2391**, Hon'ble the Supreme Court set aside the split multiplier adopted by the High Court as the deceased was 58 years at the time of accident and the Tribunal has taken multiplier as 8 but the High Court allowed loss of dependency at Rs.10,98,000/- for the first two years and for the balance 7 years only 50% annual income was taken into consideration to compute loss of dependency at Rs.19,21,500/-. In **K.R. Madhusudhan and others vs Administrative Officer and another, 2011(2) RCR (Civil) 207 (SC)**, the High Court reduced the compensation granted by the Tribunal. The split multiplier adopted by the High Court was set aside with the observations that the High Court introduced the concept of split multiplier and debarred from the multiplier used by the Tribunal without disclosing any reason.

A Co-ordinate Bench of this Court in **The Oriental Insurance Company vs Smt. Premwati and another, FAO No.6396 of 2012 decided on 27.02.2016** did not accept the judgment of another Co-ordinate Bench **Balbir Kaur vs Manjinder Singh and others, FAO No.5250 of 2013 decided on 11.12.2014** wherein split multiplier was allowed. The judgment in **Smt. Premwati and another's case** (supra) was challenged by way of petition for special leave to appeal before Hon'ble the Supreme Court but the special leave petition was dismissed on 26.08.2016 and findings of this Court negating plea of the insurance company to apply split multiplier have been affirmed. In the face of various judgments by Hon'ble the Supreme Court and counsel for the insurance company having failed to cite any judgment holding otherwise, it is difficult to accept contention of the insurance company that the Tribunal has erred by adopting a multiplier of 11 admissible for age bracket of 51 to 55 years in **Smt. Sarla Verma's case** (supra).

So far as contention of the claimants for allowing benefit of increase in income for future prospects, Lakhwinder Singh (deceased) was a regular employee working in the Police Department of State of Punjab. Taking into consideration the judgment in **Smt. Sarla Verma's case** (supra), increase for future prospects is not available if the employee has exceeded the age of 50 years. Under the circumstances, contention raised by the claimants for allowing benefit of future prospects is not tenable and liable to be rejected.

This brings the Court to the issue of interest on the amount of compensation assessed by the Tribunal. The Tribunal has awarded interest at the rate of 7.5% per annum subject to the condition that interest would be payable only in case the respondents therein failed to pay compensation within two months from the date of award. The Tribunal has not assigned any reason for denying pendente lite interest to the claimants or allowing a concession in favour of the respondents. The petition for compensation was filed on 31.10.2015 and the occurrence pertains to 2nd October, 2015. The petition was finally decided by the Tribunal on 19.12.2016. There is nothing on record suggestive of the fact that delay in conclusion of proceedings can be attributed to the claimants. In the given circumstances, there is no justification to deny pendente lite interest to the claimants who have been held entitled to get compensation from the date of petition. That being so, the claimants shall be entitled to interest at the rate of 7.5% per annum on the amount assessed by the Tribunal from the date of petition till realization disregarding whether the respondents therein paid the amount within two months or otherwise.

With the aforesaid observations, cross objections preferred by the claimants are partly allowed. However, the appeal preferred by the insurance company is dismissed.

AUGUST 28, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no