IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6007 of 2017(O&M)

Date of decision: 14.9.2017

The Oriental Insurance Co. Ltd. ….Appellant

VERSUS

Usha Rani and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ram Avtar, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

The present appeal directs challenge against award dated 05.05.2017 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Gurdev Singh in a motor vehicular accident that took place on 20.07.2016.

At the outset, counsel for the appellant would inform that the appeal has been preferred by the insurance company to challenge quantum of compensation assessed by the Tribunal. It has further been argued that the Tribunal has wrongly assessed income of the deceased at Rs.8,200/- per month as the claimants failed to adduce any tangible much less documentary evidence on record to prove his income. Another submission made by counsel is that the Tribunal has extended benefit of increase in income for future prospects to the extent of 30% even though the matter in this regard is pending 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**.

I have heard counsel for the appellant, perused the paper-book particularly the award passed by the Tribunal.

The deceased was working as a rickshaw puller in Chandigarh when he met with accident due to alleged rash and negligent driving of bus of Haryana Roadways. The Tribunal did not accept plea of the claimants that the deceased had monthly income of Rs.15,000/- but by relying upon minimum wage available at the relevant time, assessed income of the deceased at Rs.8,200/- per month. I have perused the notification issued by Union Territory Chandigarh with regard to minimum wage available at the relevant time and unable to accept plea of the appellant that income assessed by the Tribunal is on higher side or liable to be reduced. In this view of the matter, findings of the Tribunal assessing income of the deceased are liable to be affirmed and ordered accordingly.

So far as the plea of the appellant with regard to allowing of increase in income for future prospects, the deceased was approximately 40 years old and left behind family consisting of his widow, daughter aged 1½ years, son aged about 2 months and father. It is difficult to accept that the deceased would have stagnated at income of Rs.8,200/- per month had he remained alive. I stand fortified in my observation from the fact that State Governments revise minimum wages at short intervals i.e. quarterly or biannually. A person whose income is assessed on the basis of daily wage need to put in more labour to keep pace with the rising prices for providing livelihood for himself and his family. Under the circumstances, 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 **Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170** is varied or set aside.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. However, nothing stated hereinbefore shall cause prejudice to the claimants in case they file an appeal for enhancement of compensation.

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

Whether speaking/reasoned : yes/no
Whether reportable : yes/no