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

FAO No.3485 of 2002(O&M) &

XOBJC-4-CII of 2003

Date of decision: 16.5.2018

Subhash …..Appellant

VERSUS

Narinder and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: None for the appellant.

Mr. R.K. Girdhwal, Advocate for respondent No.1.

Mr. Ashok Jindal, Advocate for cross objectors.

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REKHA MITTAL, J. (Oral)

This order shall dispose of FAO No.3485 of 2002 and cross objections No.4-CII of 2003 as these have emerged out of the same award dated 28.03.2002 passed by the Motor Accidents Claims Tribunal, Jhajjar (in short 'the Tribunal') whereby compensation has been awarded on account of death of Suresh Kumar in a motor vehicular accident that took place on 24.08.1999.

There is no representation on behalf of the appellant. The situation was no different on the last two dates i.e. 04.10.2017 and 13.12.2017. The matter was referred to the Lok Adalat but there was no representation on behalf of the appellant even before the Lok Adalat on 24.03.2017 and 11.05.2017. It appears that the appellant is no longer interested to pursue his remedy and accordingly the appeal is ordered to be dismissed. However, cross objections filed by the claimants are to be decided on merits in view of provisions of Order 41 Rule 22 (4) of the Code of Civil Procedure, 1908.

The Tribunal has assessed compensation to the tune of Rs.1,58,400/- detailed hereunder:-

Monthly income of the deceased	Rs.1800/-
Deduction for personal expenses	1/3rd
Multiplier	11
Loss of dependency	Rs.1,58,400/-

Subhash, owner of the vehicle and Narinder, driver thereof were held liable to pay compensation to the claimants. The application for compensation has been filed by the parents and one brother of the deceased. Brother of the deceased is not entitled to get compensation during lifetime of his father when otherwise there is nothing on record suggestive of the fact that he was dependent upon earning of the deceased. Claimants shall be entitled to benefit of future prospects at the rate of 40%. As the deceased was 30 years old, admissible multiplier is 17. However, deduction for personal expenses would be 50%. In this manner, loss of dependency comes to Rs.2,57,040/- [Rs.3,67,200/- (Rs.1800/- x 12 x 17) + Rs.1,46,880/- (40% towards future prospects) – Rs.2,57,040/- (50% deduction towards personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.30,000/- i.e. Rs.15,000/- for expenses on funeral and Rs.15,000/- for loss of estate.

In view of the above, total compensation comes to Rs.2,87,040/- and additional amount is Rs.1,28,640/- (Rs.2,87,040/- - Rs.1,58,400/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization, to mother of the deceased.

The cross objections are partly allowed in the aforesaid terms.

MAY 16, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no