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

FAO No.1131 of 1994(O&M)

Date of decision: 10.5.2018

Smt. Jagir Kaur and another …..Appellants

VERSUS

Sh. Mohinder Singh and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ram Chander, Advocate for the appellants.

Mr. P.S. Brar, Advocate for respondent No.1.

Mr. Ashwani Talwar, Advocate for respondent No.2.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Kurukshetra (in short 'the Tribunal') on account of death of Mohinder Singh in a motor vehicular accident that took place on 01.10.1992.

The Tribunal has assessed compensation of Rs.1,75,000/- detailed hereunder:-

Monthly income of the deceased	Rs.1500/-
Deduction for personal expenses	Rs.600/-
Multiplier	16
Loss of dependency	Rs.1,72,000/-
Expenses on medicines etc.	Rs.3,000/-

Counsel for the appellants would urge that income of the deceased assessed by the Tribunal is not based upon materials on record i.e. 'J' forms dated 14.01.1993 which indicate sale of wheat weighing 239 quintals valuing Rs.82918.90 and earlier 'J' forms issued prior to death of the victim. In addition, it is argued that claimants are entitled to benefit of future prospects at the rate of 25%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has refuted contention of the claimants for enhancement of income by contending that claimants failed to produce any document with regard to ownership or possession of agricultural land by the deceased. In the alternative, it is argued that even if the deceased was cultivating some land, claimants, at best, can be held entitled to loss of value of managing skills of the deceased and the Tribunal has already assessed income of the deceased at a rate higher than minimum wage available at the relevant time. The deceased was 45 years old, therefore, admissible multiplier should be 14 in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**.

Indisputably, the claimants did not produce any document to substantiate their plea that deceased was owner of agricultural land or was cultivating land by taking it on theka etc. Two of the 'J' forms that pertain to the period prior to death of the deceased value Rs.7,000/-. The other 'J' forms have been issued later. As has been rightly argued by counsel for the insurance company that even if the deceased was cultivating some land, his family has suffered loss of his services/managing skills. The minimum wage of a casual worker at the relevant time was less than Rs.1,000/- per month and similar was the position with regard to semi skilled person. Tribunal had assessed income of the deceased at Rs.1,500/- per month. I do not find any justification for enhancement of income of the deceased. However, claimants shall be entitled to benefit of future prospects at the rate of 25%. Deduction for personal expenses would be $1/3^{rd}$. Multiplier adopted by the Tribunal is modified to the effect that it would be 14. In this manner, loss of dependency comes to Rs.2,10,000/- [Rs.2,52,000/- (Rs.1500 x 12x 14) + Rs.63,000/- (25% future prospects) – Rs.1,05,000/- ($1/3^{rd}$ deduction towards personal expenses).

The claimants shall be entitled to following compensation under conventional heads in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** :-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.2,80,000/- and the additional amount is Rs.1,05,000/- (Rs.2,80,000/- - Rs.1,75,000/-) 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.

MAY 10, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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