IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.2784 of 2005 (O&M)
Date of Decision:10.09.2018

Shakuntla and others

...Appellants

Versus

Virender Singh and others

...Respondents

CORAM:- **HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr.S.S.Khurana, Advocate for the appellants.
Ms.Vandana Malhotra, Advocate for respondent No.3.

ANIL KSHETARPAL, J. (ORAL)

CM-12075-CII-2005

For the reasons stated in the application, which is supported by an affidavit, delay of 6 days in filing the appeal is condoned.

CM stands disposed of.

Main case

The claimants-appellants are in the appeal against the award passed by the learned Motor Accident Claims Tribunal, Rewari (for short `the Tribunal') dated 21.1.2005, seeking enhancement of the compensation.

There is no cross appeal either by the Insurance Company or by the respondents. Hence only issue which requires determination is what should be the appropriate compensation.

Hans Raj, aged about 34 years, died in a motor vehicular accident on 10.7.2003, leaving behind five dependents including widow, three children and a widowed mother. He was drawing a salary of Rs.5710/- per month while working as a Driver with the Municipal Committee, Rewari.

The Tribunal while assessing the compensation applied deduction of 1/3rd on account of his self expenses. Keeping in view that there were total six members of the family and five were dependents, the deduction made by the Tribunal was clearly erroneous. Hence, deduction should not be more than 1/4th on account of personal expenses. The Tribunal has applied multiplier of 16, which is not challenged. However, learned counsel for the appellants has pointed out that since the deceased was having permanent job, therefore, on account of future prospects, 50% of the income was to be added. He has also submitted that on account of conventional heads, only Rs.9,500/- has been granted, which should be Rs.70,000/- as per the judgment passed by the Hon'ble the Supreme Court in **SLP (C) No.25590 of 2014 (National Insurance Company Limited Vs Pranay Sethi and others) decided on 31.10.2017.**

Keeping in view the aforesaid facts, the award passed by the Tribunal stands modified. The income of the deceased is assessed at Rs.8565/- per month including future prospects. [5710+(5710 X50%)]. 1/4th is to be deducted towards personal expenses and thus yearly dependency comes to Rs.77,088/-[Rs.8565-(8565X1/4)X12]. After applying the multiplier of 16, the dependency would come to Rs.12,33,408/- (Rs.77,088 X 16).

The learned Tribunal awarded a sum of Rs.2,000/- towards funral expenses, Rs.5,000/- for consortium and Rs.2,500 for loss of the estate. However, as per the judgment of **Pranay Sethi (supra)**, the claimants shall be entitled to Rs.70,000/- in total under conventional heads (for loss of consortium Rs.40,000/-, Rs.15,000/- for loss of estate and

Rs.15,000/- for funeral expenses). Thus, total amount payable to the claimants comes to Rs.13,03,408/- (Rs.12,33,408/-+Rs.70,000/-). Enhanced amount payable to the claimants after adjusting the amount awarded by the Tribunal comes to Rs.5,62,964 (Rs.13,03,408/--Rs.7,40,444/-), which is rounded off to Rs.5,63,000/-.

Claimants shall also be entitled for interest @ 7.5% per annum on the enhanced amount, i.e. Rs.5,63,000/- from the date of filing of petition till realization.

With the above modifications in the impugned award dated 21.01.2005 passed by the Tribunal, the appeal is allowed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

10.09.2018 **(ANIL KSHETARPAL)**
mks **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No