IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5403 of 2005(O&M)

Date of decision: 23.3.2018

Shikha Girhotra and another …..Appellants

VERSUS

Gulzar Singh and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Naveen Daryal, Advocate for the appellants.

Mr. A.S. Gill, Advocate for respondent No.1.

Mr. Vinod Gupta, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panchkula (in short 'the Tribunal') on account of death of Ashish Girhotra in a motor vehicular accident that took place on 31.03.2004.

The Tribunal has awarded compensation of Rs.6,50,000/- detailed hereunder:-

Annual income of the deceased	Rs.60,000/-
Deduction for personal expenses	1/3rd
Multiplier	16
Loss of dependency	Rs.6,40,000/-
Loss of consortium	Rs.10,000/-

Counsel for the appellants would argue that the deceased was an income tax assessee and income tax return filed by him immediately before his death should be the basis for assessing loss of income. Claimants are entitled to benefit of future prospects at the rate of 40%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal with the plea that the claimants failed to adduce clear much less cogent evidence to prove income of the deceased. It is further argued that only one income tax return was brought before the Tribunal and the same is a marked document and has not been proved in accordance with law.

Counsel for the appellants, during the course of hearing, supplied photocopy of income tax return Mark-A which appears to have been brought on record by widow of the deceased. It further appears that original of this document has not been produced on record nor the same has been proved by calling an official from the Income Tax Department. In the income tax return Mark-A, income of the deceased from business or profession has been shown to be Rs.74,500/- out of which an amount of Rs.3900/- is shown to be paid towards tax. The Tribunal has assessed annual income of the deceased at Rs.60,000/-. In the given scenario, I do not find any reason to interfere in assessment of income made by the Tribunal. However, the claimants shall be entitled to benefit of increase in income for future prospects at the rate of 40%.

The deceased was less than 30 years of age. In the income tax return Mark-A, his date of birth is 25.05.1975. 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**, admissible multiplier would be 17. Deduction for personal expenses allowed by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs.9,52,000/- [Rs.10,20,000/- (Rs.60000 x 17) + Rs.4,08,000/- (40% future prospects) – Rs.4,76,000/- (1/3rd 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.10,22,000/- and the additional amount is Rs.3,72,000/- (Rs.10,22,000/- - Rs.6,50,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to the appellants in equal proportion. The amount falling to the share of minor shall be deposited in Fixed Deposit till she attain the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

MARCH 23, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no