IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.5685 of 2005
Date of Decision:17.02.2018

Smt.Sunil Devi and others

...Appellants

Versus

Satyapal and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Madhulika, Advocate for
Mr.S.N.Yadav, Advocate for the appellants.
Mr.Neeraj Khanna, Advocate for
Mr.Ravinder Arora, Advocate for the Insurance Company.

ANIL KSHETARPAL, J. (ORAL)

The appellants-claimants are seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal (for short `the Tribunal') on account of death of Bhoop Singh, aged about 35 years.

The Tribunal has assessed the income of the deceased at Rs.4100/- per month on the basis of salary drawn by the deceased from a school while working as a Driver. The Tribunal has ignored the fact that the deceased was also owners of 13 acres of land as per the jambabandi produced on the record.

No doubt, the land has been inherited by the appellants after the death of Late Sh.Bhoop Singh, however, Shri Bhoop Singh, being owner, must be doing something to manage and cultivate the agricultural land. The work done by an agriculturist cannot be ignored. Hence, taking into consideration the fact that the accident took place in the year 2004, this

Court feels appropriate that the amount claimed by the appellants-claimants claiming that deceased Bhoop Singh was earning Rs.8,000/- per month was not exaggerated. 13 acres of land could be leased out even in the year 2004 at least for Rs.1,00,000/- per year. Such being the position, the income of the deceased is assessed at Rs.8,000/- per month. The learned Tribunal has also committee an error while deducting 1/3rd amount towards personal expenses. Since the deceased had left behind widow, mother and four children (six dependents), deduction towards personal expenses could not be more than 1/4th. The learned Tribunal has also although referred to the multiplier to be applied as 16, however, actually multiplier of 15 has been applied. As per the judgment of the Hon'ble Supreme Court in **Sarla Verma & others Vs. Delhi Transport Corporation & others, 2009 (3) RCR (Civil) 77**, the multiplier of 16 is to be applied. As per the judgment of the Constitution Bench of the Hon'ble Supreme Court in **SLP (C) No.25590 of 2014 (National Insurance Company Limited Vs Pranay Sethi and others)** decided on 31.10.2017, appellants shall also be entitled to 40% addition on account of future prospects, as the deceased was below the age of 40 years.

Taking into consideration the aforesaid facts, the award passed by the Motor Accident Claims Tribunal stands modified. The income of the deceased is assessed at Rs.11,200/- per month including future prospects. [8000+(8000 X40%)]. 1/4th is to be deducted towards personal expenses and thus yearly dependency comes to Rs.1,00,800/- [Rs.11200-(11200X1/4)X12]. After applying the multiplier of 16, the dependency would come to Rs.16,12,800 (Rs.1,00,800 X 16).

Under the conventional heads, the claimants shall be entitled to

Rs.70,000/- i.e. 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.16,82,800/- (Rs.16,12,800/-+Rs.70,000/-). Enhanced amount payable to the claimants comes to Rs.11,90,680/- (Rs.16,82,800 -Rs.4,92,120/-=Rs.11,90,680), which is rounded off to Rs.11,90,700/-.

Claimants shall also be entitled for interest @ 7.5% per annum on the enhanced amount, i.e. Rs.11,90,700/- from the date of filing of petition till realization.

With the above modification in the impugned award dated 29.07.2005 passed by the Tribunal, this appeal is allowed.

17.02.2018 **(ANIL KSHETARPAL)**
mks **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No