IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 13.09.2018

FAO No.5630 of 2011 (O&M)

Smt. Bala ... Appellant

Versus

Malkiat Singh and ors. ... Respondents

FAO No.1492 of 2014 (O&M)

Balbir Singh and another ... Appellants

Versus

Malkiat Singh and ors. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sansar Kundu, Advocate
for the appellant in FAO No.5630 of 2011.

Mr. Mandeep S. Kundu, Advocate
for the owner.

Mr. Arun Sharma, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.5630 of 2011 and 1492 of 2014 as these have emerged out of the same award dated 07.06.2011 passed by the Motor Accidents Claims Tribunal, Jind whereby compensation has been assessed on account of death of Sonu and Anuraag in a motor vehicular accident that took place on 22.07.2010.

FAO No.5630 of 2011 has been filed by Smt. Bala, unfortunate mother of deceased Sonu seeking enhancement of compensation whereas the other appeal has been preferred by Balbir Singh and another for the same relief qua death of Anuraag.

FAO No.5630 of 2011

The Tribunal has awarded compensation of Rs.2,80,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Multiplier	10
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.2,70,000/-
5. Expenses on transportation and last rites	Rs.10,000/-

The deceased was 22 years old at the time of occurrence. He is the eldest son of the family. Taking a clue from the notification issued by the State of Haryana fixing minimum wages at the relevant time, there is no justification for enhancement of income of the deceased. However, claimant shall be entitle to addition in income for future prospects @ 40%. As the deceased was 22 years old, admissible multiplier is 18 in the light of judgments of Hon'ble the Supreme Court **Sarla Verma & Ors Vs Delhi Transport Corp. & Anr, 2009 (3) RCR (Civil) 77**, **Munna Lal Jain and anr. Vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315** and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.6,80,400/- [(Rs.4500 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimant shall be entitle to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

Total compensation is Rs.7,10,400/- and the additional amount is Rs.4,30,400/- (7,10,400 - 2,80,000), payable with interest @ 7.5% per annum from the date of petition till realization. Additional compensation shall be paid by the respondents before the Tribunal, in terms of the award.

The appeal is partly allowed in the aforesaid terms.

CM No.5140-CII of 2014 in FAO No.1492 of 2014

Prayer in this application is for condonation of delay of 140 days in filing the appeal.

In view of averments made in the application supported by an affidavit of Sh. Balbir Singh, one of the claimants coupled with that the provisions of Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 140 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay in case compensation is enhanced.

Disposed of accordingly.

FAO No.1492 of 2014

The Tribunal has allowed compensation of Rs.1,90,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3000/-
2. Multiplier	10
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.1,80,000/-
5. Expenses on transportation and last rites	Rs.10,000/-

The Tribunal, in para 32 of the award, has noticed that Naveen Kumar respondent No.4 (owner of canter No.HR-69A-0840) had admitted in the written statement that Anuraag was working as a cleaner on his canter at monthly salary of Rs.2500/-. The Tribunal has assessed income of the deceased at Rs.3000/- per month and the same is affirmed. Claimants shall be entitled to benefit of addition in income for future prospects @40%. The admissible multiplier would be 18 in terms of findings of this Court in FAO No.5630 of 2011. In this manner, loss of dependency is calculated at Rs.4,53,600/- [(Rs.3000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

Total compensation is Rs.4,83,600/- and the additional amount is Rs.2,93,600/- (4,83,600 - 1,90,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 140 days in filing the appeal, to mother of the deceased. Additional compensation shall be paid by the respondents before the Tribunal, in terms of the award.

The appeal is partly allowed in the aforesaid terms.

13.09.2018 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No