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

FAO No. 4081 of 2012(O&M)

Date of decision: 5.7.2018

Sonia and others …..Appellants

VERSUS

Prem and another .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vijay Pratap, Advocate for the appellants.

None for the respondents.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Karnal (in short 'the Tribunal') on account of death of Rajesh Kumar in a motor vehicular accident that took place on 13.10.2010.

The Tribunal has awarded compensation of Rs.6,72,800/- detailed hereunder:-

Monthly income of the deceased	Rs.4800/-
Deduction for personal expenses	1/3rd
Multiplier	17
Loss of dependency	Rs.6,52,800/-
Expenses on transportation and last rites	Rs.10,000/-
Loss of consortium to the widow	Rs.10,000/-

The plea of the claimants is that the deceased was working as Computer Operator at a salary of Rs.10,000/- per month. Ram Lal, proprietor of M/s Laxmi Cars, Shop No.6, Sector 14, Karnal was examined to substantiate plea of the claimants in this regard. However, Ram Lal in his cross examination had admitted that he had not given any appointment letter to the deceased nor he maintained any attendance register or payment of salary nor had shown his salary in his income tax return. He also could not state the name of institute from where the deceased had passed the computer course. In the given scenario, the Tribunal has rightly refused to rely upon testimony of Ram Lal PW-1 with regard to avocation and income of the deceased. However, it has been proved on record that the deceased had passed middle class examination as per certificate Ex.P5 and claimants produced on record certificate Ex.P7 issued by Centre for I.T. of Advanced Computing with regard to the deceased having undergone the course in Tally 5.4 + 6.3 M.S. Office. Taking into consideration the minimum wage of a skilled worker available at the relevant time, income of the deceased is assessed at Rs.5,000/- per month. Claimants shall be entitled to benefit of addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.9,52,000/- [Rs.10,20,000/- (Rs.5000 x 12x 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 **<u>National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270</u>** :-

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.3,49,200/- (Rs.10,22,000/- - Rs.6,72,800/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to minor son of the deceased, to be invested in a fixed deposit till he attains the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

JULY 5, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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