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

FAO No.4168 of 2013 (O&M)
Date of Decision: April 25, 2018

Sunita Rani and others ...Appellants

Versus

Sukhvinder @ Sukhminder and another ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Munish Mittal, Advocate
for the claimants - appellants.

Mr.M.B Jain and Mr.Punit Jain, Advocate
for respondent No.3 – Insurer.

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HARINDER SINGH SIDHU, J.

The claimants have filed the present appeal for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') vide its award dated 07.12.2012.

Brief facts as disclosed in the claim petition are that on 30.11.2010 in the area of village Bapda, Tehsil Ladwa, District Kurukshetra a vehicular accident took place involving Car No.DL-1CH-9685 (herein for short 'the offending vehicle'), wherein, Rajpal lost his life. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

On a claim petition having been filed by the legal representatives of deceased Rajpal, the Tribunal assessed the income of the deceased at Rs.17,472/- per month, deducted 1/4th towards his personal expenses and the monthly dependency was assessed at Rs.13,104/-. But considering that the wife of the deceased would be getting full salary of Rs.16,446/- after the demise of her husband, as per the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006 (for short "Rules") referred to be the Tribunal as `*Haryana Government instructions',* the Tribunal did not assess any loss of dependency upto the period of the superannuation of the deceased. Thereafter, considering the loss of dependency on the basis of the pension, the Tribunal assessed the monthly loss at Rs.6550/- per month, applied multiplier of 9. Besides, Rs.5000/- for 'transportation' and Rs.10,000/- towards 'loss of consortium' were also awarded. In all, compensation of Rs.7,23,000/- (rounded off) along with interest was awarded.

Dissatisfied with the quantum of compensation, the claimants are before this Court.

It is argued on behalf of the claimants – appellants that the Tribunal has not correctly assessed the loss of dependency. The Tribunal ought to have granted 50% increase on account of future prospects, deducted 1/4th towards personal living expenses of the deceased and applied multiplier of 15 considering the age of the deceased 37 years at the time of accident. It is stated that the family of the deceased would receive the last drawn salary for 12 years only under the Rules, and not 21 years as considered by the Tribunal. It is further argued that the Tribunal also erred in awarding the lesser amount under the conventional heads. Reliance has been placed on ***Reliance General Insurance Co. Ltd. v. Shashi Sharma*, (2016) 9 SCC 627.**

I have heard Ld. Counsel for the parties and gone through the records with their assistance.

The legal position as pointed out by Ld. Counsel for the appellants could not be disputed.

Under the Rules of 2006, the family of the deceased employee would get Rs.16,446/- per month for 12 years under Rule 5(1) of the said Rules. In other words, a sum of Rs.2368224/- (16446x12x12) would be receivable by the legal heirs of the deceased under Rule 5(1) of the Rules. It has been held in ***Shashi Sharma's*** case that the amount receivable by the dependants of the deceased government employee in terms of Rule 5(1) of the 2006 Rules, towards financial assistance equivalent to the loss of pay and wages of the deceased employee for the period specified is to be excluded.

In view of the above and having considered the decisions of Hon'ble Supreme Court in **Shashi Sharma's** case (supra), and **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 AIR(SC) 5157,** the compensation is re-assessed as under:-

Sr.No.	**Heads**	**Calculation (In Rs.)**
(i)	Income	17472/- per month
	50% of above (i) to be added as future prospects (deceased aged 37 yrs.)	17472+(17472x50/100) = 26208/-
	Gross Annual income(26208x12)	314496
	Tax payable income (314496-160000)	154496
	Income Tax payable 160000-300000 = 10% 300000-500000 = 20% (140000x10/100) + (14496x20/100)	16899.2 (rounded off at 16899/-)

(ii)	Net Annual Income (Gross Income – Tax payable)	297597/-
(iii)	Annual dependency (1/4th of (ii) deducted as personal expenses of the deceased - five dependants)	297597-(297597x1/4)= 223197.75
(iv)	Loss of dependency after multiplier of 15 is applied	223197.75x15= 3347966.25 (rounded of at Rs.3348000/-)
(v)	Amount to be received by claimants under Rule 5(1) of Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006	2368224/-
(vi)	Loss of dependency payable = Difference [(v) – (iv)]	9,79,776/-
(v)	Loss of Consortium (Exclusively payable to the widow of deceased)	40,000/-
(vi)	Loss of Estate	15,000/-
(vii)	Funeral Expenses	15,000/-
	Compensation payable	***10,49,776/- (rounded off at Rs.10,50,000/-)***

Hence, the appeal is allowed. The Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.10,50,000/-, that is, Rs.3,27,000/- (1050000-723000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

April 25, 2018 **(HARINDER SINGH SIDHU)**
gian **JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No