IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 17.7.2018

1. **FAO No.2097 of 2016(O&M)**

Shri Kant and another …..Appellants

VERSUS

Ganga Ram and others .....Respondents

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2. **FAO No.2255 of 2016(O&M)**

Shri Kant and another …..Appellants

VERSUS

Ganga Ram and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: None for the appellants.

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

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.2097 and 2255 of 2016 as these have emerged out of the same award dated 10.02.2016 passed by the Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhari (in short 'the Tribunal') whereby compensation has been awarded on account of death of Ram Karan and Rani Devi in a motor vehicular accident that took place on 07.09.2014.

FAO No.2097 of 2016

The Tribunal has awarded compensation of Rs.8,65,000/- in regard to death of Ram Karan, detailed hereunder:-

Monthly income of the deceased	Rs.7500/-
Deduction for personal expenses	1/3rd
Multiplier	13
Loss of love and affection	Rs.50,000/-
Transportation of dead body/last rites	Rs.25,000/-
Loss of estate	Rs.10,000/-

Counsel for the insurance company would urge that even if the deceased is considered to be semi-skilled or skilled person, income of the deceased cannot be assessed more than Rs.6,000/- per month. Compensation allowed under conventional heads is liable to be restricted to Rs.30,000/- as wife of the deceased also died in the same accident.

There is no representation on behalf of claimants earlier being represented by a counsel.

The Tribunal in para 16 of the award has adverted to assessment of income of the deceased. The plea of the claimants is that Ram Karan was self-employed as skilled mason and used to earn Rs.25,000/- per month. They have also relied upon certificate Ex.P8 regarding participation of Ram Karan in some technical job. Ram Karan was not an income tax assessee. No material has been produced on record with regard to his engagement as a Mason much less his earning as such. Taking a clue from the notification issued by the State of Haryana fixing minimum wages and available at the relevant time, income of the deceased is assessed at Rs.6,000/- per month. Claimants shall be entitled to benefit of addition in income for future prospects at the rate of 25%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.7,80,000/- [Rs.9,36,000 /- (Rs.6,000/- x 12 x 13) + Rs.2,34,000/- (25% towards future prospects) - Rs.3,90,000/- (1/3rd deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is restricted to Rs.30,000/- i.e. Rs.15,000/- for expenses on funeral and Rs.15,000/- for loss of estate.

In view of the above, total compensation is Rs.8,10,000/- and compensation awarded by the Tribunal is reduced to the extent of Rs.55,000/- (Rs.8,65,000/- - Rs.8,10,000/-).

The appeal is disposed of in the aforesaid terms.

FAO No.2255 of 2016

With regard to death of Rani Devi, the Tribunal has awarded compensation of Rs.6,34,944/- (rounded off to Rs.6,35,000/-) detailed hereunder;-

Monthly loss of income	Rs.5,000/-
Deduction for personal expenses	1/3rd
Multiplier	14
Loss of love and affection	Rs.50,000/-
Transportation of dead body and last rites	Rs.25,000/-

Counsel for the insurance company would urge that compensation allowed under conventional heads needs to be restricted to

Rs.15,000/- qua expenses on last rites as husband of the deceased also died in the same accident.

There is no representation on behalf of claimants earlier being represented by a counsel.

The deceased was 42 years old at the time of occurrence. She left behind family consisting of two children and one of them is minor. Taking into consideration value of services of the deceased, her income is assessed at Rs.6,000/- per month. There would be no deduction for personal expenses, in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. Multiplier of 14 applied by the Tribunal is correct and affirmed. In this manner, loss of dependency comes to Rs. 10,08,000/- (Rs.6,000/- x 12 x 14).

Compensation awarded under conventional heads is restricted to Rs.15,000/- namely expenses on funeral/last rites.

In view of the above, total compensation is Rs.10,23,000/- and additional amount is Rs.3,88,000/- (Rs.10,23,000/- - Rs.6,35,000/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization to the claimants in the ratio 40:60. The amount falling to share of the minor shall be invested in a Fixed Deposit till she 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 17, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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