IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

235 FAO No.2505 of 2016 (O&M)
Date of decision: 18.07.2018

NEERU SHARMA AND ANR ... Appellants

Versus

SUBHASH CHANDER AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Diwan S. Adlakha, Advocate
for the appellants.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Vinod Kumar in a motor vehicular accident that took place on 17.11.2013.

The Tribunal has assessed compensation of Rs.27,63,000/-, represented in a tabulated form in para 19 of the award.

The sole submission made by counsel for the appellants is that in the income tax return for the assessment year 2012-13, income of the deceased has been recorded as Rs.1,87,500/- per annum but the Tribunal has assessed his income at Rs.1,69,200/- per annum which was the income amenable to tax after certain exemptions.

I have heard counsel for the appellants, perused the paper book particularly the award and the income tax return relied upon by the claimants.

The Tribunal has allowed benefit of addition in income for future prospects @ 50% as against 40% admissible in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Compensation under conventional heads has been allowed to the tune of Rs.2.25 lakhs and the same in the light of **Pranay Sethi and others's case (supra)** can be only Rs.70,000/-. On a pointed query, counsel for the appellants has fairly conceded that in case income of the deceased is assessed at Rs.1,87,500/- per annum but addition in income is reduced to 40% and compensation under conventional heads is restricted to Rs.70,000/-, there would be no enhancement of compensation. In this view of the matter, claimants cannot press for grant of compensation over and above what has been allowed by the Tribunal.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

18.07.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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