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

Date of decision: 21.9.2018

1. **FAO No. 4712 of 2015(O&M)**

United India Insurance Co. Ltd. …..Appellant

VERSUS

Smt. Neelam and others .....Respondents

Present: Mr. Suvir Dewan, Advocate for the appellant.

Mr. Raj Kumar Rathore, Advocate for
Mr. Sandeep Goyat, Advocate for respondent Nos.1 to 4.

None for respondents No.5 and 6.

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2. **FAO No. 8487 of 2015(O&M)**

Smt. Neelam and others …..Appellants

VERSUS

Sukhdev and others .....Respondents

Present: Mr. Raj Kumar Rathore, Advocate for
Mr. Sandeep Goyat, Advocate for the appellants.

Mr. Suvir Dewan, Advocate for respondent No.3.

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4712 and 8487 of 2015 as these have emerged out of the same award dated 08.04.2015 passed by the Motor Accidents Claims Tribunal, Hissar (in short 'the Tribunal') whereby compensation has been assessed on account of death of Ram Mehar in a motor vehicular accident that took place on 30.01.2014.

FAO No.4712 of 2015 has been filed by the United India Insurance Co. Ltd. (hereinafter to be referred as the insurance company) whereas the other appeal has been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that the appeal has been preferred only to assail quantum of compensation assessed by the Tribunal.

FAO Nos.4712 and 8487 of 2015

The Tribunal has awarded compensation of Rs.15,21,780/- detailed hereunder:-

Monthly income of the deceased	Rs.7260/-
Deduction for personal expenses	1/4th
Multiplier	17
Loss of dependency	Rs.11,10,780/-
Loss of love and affection to the parents	Rs.1 lakh each i.e. Rs.4 lakhs
Funeral and transportation expenses	Rs.11000/-

Counsel for the insurance company would urge that income of the deceased assessed by the Tribunal is based upon Deputy Commissioner's rates, meant for payment of salary to employees out of contingency funds. It is further submitted that minimum wage of an unskilled labour at the relevant time was Rs.5550/- per month. Another submission made by counsel is that compensation allowed under conventional heads is liable to be reduced.

The plea of the claimants is that the deceased was a skilled labour as he was working as a clerk/munshi at a brick kiln. However, claimants failed to adduce satisfactory much less cogent evidence to prove employment of the deceasd as munshi/clerk at a brick kiln. The Tribunal has assessed income of the deceased at Rs.7260/- per month on the basis of Deputy Commissioner order dated 21.11.1941 for the year 2013-14. The Deputy Commissioner rates are meant for payment to employees in different departments out of contingency.

Taking a clue from the notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5600/- per month. Claimants shall be entitled to addition in income for future prospects at the rate of 40%. The Tribunal has allowed deduction of 1/4th for computing loss of dependency. There is nothing on record suggestive of the fact that father of the deceased suffered from any disability to impair his capacity to earn. In the given scenario, deduction for personal expenses would be 1/3rd. The multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.10,66,240/-[Rs.11,42,400/- (Rs.5600/- x 12 x 17) + Rs.4,56,960/- (40% towards future prospects) – Rs.5,33,120/- (1/3rd deduction towards personal expenses)]

Under conventional heads, the Tribunal has allowed a sum of Rs.4,11,000/-. In view of the latest judgment of Hon'ble the Supreme Court **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru**

Ram and others, Civil Appeal No.9581 of 2018 arising out of SLP (Civil) 3192 of 2018, compensation qua loss of love and affection to the minor child is allowed to the tune of Rs.50,000/-. Claimants No.1 to 3 shall be entitled to loss of consortium at the rate of Rs.40000/- each i.e. Rs.1,20,000/-. The claimants shall be entitled to funeral expenses of Rs.15,000/- and another Rs.15,000/- for loss to estate. In this manner, claimants shall be entitled to Rs.2,00,000/- under conventional heads.

In view of the above, total compensation comes to Rs.12,66,240/- and compensation allowed by the Tribunal is reduced to the extent of Rs.2,55,540/- (Rs.15,21,780/- - Rs.12,66,240/-).

The appeals are disposed of in the aforesaid terms.

SEPTEMBER 21, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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