IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 07.05.2018

FAO-7751-2014 (O&M)

Payal Gupta and another ... Appellants

Versus

Ajar Bahadur and others ... Respondents

FAO-8940-2014 (O&M)

Smt. Sneh Lata and another ... Appellants

Versus

Ajar Bahadur and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Karan Garg, Advocate
for the appellants in FAO No.8940 of 2014 and
for respondents No.4 and 5 in FAO No.7751 of 2014.

Mr. Rajeshwar Singh, Advocate
for the appellants in FAO No.7751 of 2014.

Ms. Vandana Malhotra, Advocate
for the insurance company in FAO No.7751 of 2014.

Mr. Sanjeev Goyal, Advocate
for the insurance company in FAO No.8940 of 2014.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.7751 and 8940 of 2014 as these have emerged out of the same award dated 01.08.2014 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been awarded on account of death of Rahul Gupta in a motor vehicular accident that took place on 19.07.2011 leading to filing of two claim applications one by Smt. Sneh Lata and Pawan Kumar, parents of the deceased and the other by Payal Gupta wife and minor son of Rahul Gupta.

The Tribunal has awarded compensation of Rs.27,26,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.17,000/-
2. Multiplier	17
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.26,01,000/-
5. Expenses on last rites	Rs.25,000/-
6. Loss of love and affection to parents	Rs.1,00,000/-

Out of awarded amount, parents of the deceased have been paid Rs.9,00,000/- each, Rs.5,00,000/- to the minor child and the remaining amount to widow of the deceased.

The Tribunal has not allowed benefit of increase in income for future prospects. Claimants shall be entitled to addition for future prospects @ 40%. Contention raised by counsel for the insurance company that income of the deceased is liable to be reduced to Rs.16,500/- per month on the basis of income tax return Ex.PW4/B coupled with liability to pay income tax of Rs.4405/- is not allowed. The Tribunal has made deduction of 1/4th for personal expenses of the deceased. The deceased was a married man who had a son out of his wedlock with Payal Gupta. The father of the deceased retired from FCI and was a pensioner. Under the circumstances, it is difficult to accept that father of the deceased was dependent upon his income, therefore, deduction for personal expenses would be 1/3rd. In this manner, loss of dependency comes to Rs.32,36,800/- (Rs.17,000 x 12 x 17) + (40% future prospects) – (1/3rd deduction for personal expenses).

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that the claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss to estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

As father of the deceased has not been held to be dependent upon income of Rahul Gupta, compensation of Rs.9,00,000/- paid to the father cannot be allowed to sustain. The said amount of Rs.9,00,000/- paid to father shall be payable to mother of the deceased. It is pertinent to mention that there was marital discord between Rahul Gupta and his wife and she lodged criminal proceeding under Sections 406, 498-A and 307 IPC etc. and was paid approximately Rs.20 lakh in those proceedings. However, the additional amount Rs.5,80,800/- (Rs.33,06,800 – 27,26,000) with interest @7.5% per annum from the date of petition till realization shall be payable to minor Pranav Gupta, to be invested in fixed deposit payable on his attaining age of majority or for a period of three years, whichever is later.

The appeals are partly allowed in the aforesaid terms.

07.05.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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