IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 23.4.2018

1. **FAO No.6567 of 2015(O&M)**

Nirmal Singh and another …..Appellants

VERSUS

Gurpreet Singh and others .....Respondents

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2. **FAO No.6772 of 2015(O&M)**

Nirmal Singh and another …..Appellants

VERSUS

Gurpreet Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sandeep Lather, Advocate for the appellants.

Mr. R.K. Saini, Advocate for respondent No.1 and 2.

Mr. Bani Thomas, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.6567 and 6772 of 2015 as these have emerged out of the same award dated 20.05.2015 passed by the Motor Accidents Claims Tribunal, Ambala (in short 'the Tribunal') whereby compensation has been awarded on account of death of Ranjit Singh and Kamlesh Devi in a motor vehicular accident that took place on 10.01.2014.

With regard to death of Ranjit Singh, the Tribunal has awarded compensation of Rs.95,000/- detailed hereunder:-

Loss of dependency under no fault liability	Rs.50,000/-
Loss of love and affection and compensation for pain and agony	Rs.30,000/-
Funeral expenses	Rs.15,000/-

Counsel for the appellants would argue that though the claimants are married sons of deceased Ranjit Singh but they are entitled to compensation qua loss of dependency by computing income of the deceased and applying appropriate multiplier in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.** It is further argued that the deceased was an agriculturist as well as involved in diary farming, earning not less than Rs.20,000/- per month. Further argued that there is nothing on record suggestive of the fact that the claimants were not dependent upon income of Sh. Ranjit Singh when otherwise they being sons of deceased are entitled to compensation qua loss of dependency as well. In support of his contention, he has relied upon judgment of this Court **Miss Nandini Minor and others Vs. Amrik Singh and others, FAO No.450 of 1994, decided on 27.01.2011**. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has supported assessment made by the Tribunal with the submission that claimants have been adequately compensated by the Tribunal.

Captan Singh, one of the claimants appeared in the witness box and tendered into evidence his affidavit Ex.PW1/A by way of examination in chief. In para 4 of the affidavit, he has deposed to the following effect:-

> "4. That due to the untimely death of parents of the claimants in this accident, the claimants have been deprived of love and affection of their natural parents and all the claimants were solely dependent upon the income of deceased- father Ranjit Singh. After the death of parents of the deceased in the road-side accident, the claimants have been driven on road for want of funds."

The witness was cross examined by counsel for the insurance company and relevant extract from his cross examination reads as follows:-

> "I am married and my brother Nirmal Singh also married. Nirmal Singh is having two daughters and I am having one children. Our marriage has been solemnized during the life time of my mother and father. It is wrong to suggest that myself and my brother are doing job or that we both were dependent upon the income of our parents. My parents were not Income Tax Payee."

No evidence has been adduced by the insurance company to rebut testimony of Captan Singh. Merely because of claimants being married sons of deceased Ranjit Singh is not sufficient to deny them loss of dependency more particularly in the circumstances that there is no material on record that claimants were gainfully employed and were not dependent upon income of the deceased.

This brings the Court as to how much compensation is payable to the claimants. There is no clear evidence on record with regard to avocation and income of the deceased. As has been rightly held by the Tribunal, land owned by the deceased would be inherited by his heirs. Taking into consideration the minimum wage of a semi skilled worker available at the relevant time, income of the deceased is assessed at Rs.5,800/- per month. The deceased was 52 years old as per the postmortem report. Admissible multiplier would be 11 and deduction for personal expenses to the extent of 1/3rd. Claimants shall be entitled to benefit of future prospects at the rate of 10%. In this manner, loss of dependency comes to Rs.5,61,440/- [Rs.7,65,600/- (Rs.5800 x 12 x 11) + Rs.76,560/- (10% future prospects) – Rs.2,80,720/- (1/3rd deduction towards personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.30,000/- detailed hereunder:-

Expenses on funeral	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.5,91,440/- and the additional amount is Rs.4,96,440/- (Rs.5,91,440/- - Rs.95,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to the claimants equally.

The appeal is partly allowed in the aforesaid terms.

FAO No.6567 of 2015

With regard to death of Kamlesh Devi, the Tribunal has awarded compensation of Rs.95,000/- detailed hereunder:-

Loss of dependency under no fault liability	Rs.50,000/-
Loss of love and affection and compensation for pain and agony	Rs.30,000/-
Funeral expenses	Rs.15,000/-

Claimants are sons of the deceased. They were entitled to services of their mother being a house-maker. The deceased was 50 years old as recorded in the post-mortem report. Value of services of the deceased is assessed at Rs.5,000/- per month. No deduction for personal expenses is to be made 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**. After applying multiplier of 13, loss of dependency comes to Rs.7,80,000/- (Rs.5000/- x 12 x 13).

Under conventional heads, claimants shall be entitled to Rs.15,000/- for expenses on funeral.

In view of the above, total compensation comes to Rs.7,95,000/- and the additional amount is Rs.7,00,000/- (Rs.7,95,000/- - Rs.95,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization, to be shared by the claimants equally.

The appeal is partly allowed in the aforesaid terms.

APRIL 23, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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