IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 883 of 2014(O&M)

Date of decision: 26.7.2018

Darshana Devi and others …..Appellants

VERSUS

Balvinder Singh and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. M.K. Garg, Advocate for the appellants.

None for the respondents No.1 and 2.

Mr. R.C. Kapoor, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Jind (in short 'the Tribunal') on account of death of Sushil Kumar in a motor vehicular accident that took place on 11.05.2011 but Sushil Kumar succumbed to injuries later in point of time.

The Tribunal has awarded compensation of Rs.6,27,500/- detailed hereunder:-

Monthly income of the deceased	Rs.4500/-
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	Rs.6,07,500/-
Loss of consortium	Rs.10,000/-
Expenses on last rites	Rs.5000/-

Loss to estate	Rs.5000/-

The plea of the claimants is that the deceased was an agriculturist and doing dairy farming but they failed to adduce cogent evidence to substantiate their plea in this regard. The Tribunal has assessed income of the deceased at Rs.4500/- per month. There is no justification for enhancement of income of the deceased when examined in the light of notification issued by the State of Haryana fixing minimum wages at the relevant time. Deduction for personal expenses and multiplier allowed by the Tribunal are correct and affirmed. Claimants shall be entitled to addition in income for future prospects at the rate of 40%. In this manner, loss of dependency comes to Rs.8,50,500/- [Rs.8,10,000/- (Rs.4500 x 12x 15) + Rs.3,24,000/- (40% future prospects) – Rs.2,83,500/- ($1/4^{th}$ deduction towards personal expenses).

The claimants shall be entitled to following compensation under conventional heads in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** :-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.9,20,500/- and the additional amount is Rs.2,93,000/- (Rs.9,20,500/- - Rs.6,27,500/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 218 days in filing the appeal, to be shared by the widow and children of the deceased in equal ratio. The amount falling to share of minors, to be invested in a fixed deposit till they attain the age of majority or for a period of three years, whichever is later.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

Counsel for the appellants and insurance company are ad idem that the insurance company has been given right of recovery against the insured vide judgment dated 17.07.2014 passed by this Court in FAO no.4188 of 2013 along with connected cases. The respondents before the Tribunal shall be liable to pay compensation to the claimants but subject to right of recovery given to the insurance company.

JULY 26, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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