IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 28.2.2018

1. **FAO No. 8868 of 2014(O&M)**

Karanbir Singh and another …..Appellants

VERSUS

Rajesh Kumar and another .....Respondents

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2. **FAO No.9340 of 2014(O&M)**

Karanbir Singh and another …..Appellants

VERSUS

Rajesh Kumar and another .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. S.S. Goraya, Advocate for
Mr. Harpreet Singh, Advocate for the appellants.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate for respondent No.2.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.8868 and 9340 of 2014 as these have emerged out of the same accident that took place on 27.06.2013.

FAO No.8868 of 2014 has been filed seeking enhancement of compensation on account of death of Charanjit Singh whereas FAO No.9340 of 2014 pertains to enhancement of compensation on account of death of Savita Rani @ Sunita.

FAO No.8868 of 2014

Counsel for the appellants would argue that the Motor Accidents Claims Tribunal, Amritsar (in short 'the Tribunal') has assessed annual income of the deceased at Rs.1,64,000/- but has wrongly deducted income tax at the rate of 30%. It is argued that income of the deceased was not taxable, therefore, no deduction qua income tax is to be made even after adding benefit of future prospects.

Counsel representing the insurance company, on the contrary, would urge that the Tribunal has allowed benefit of increase in income for future prospects at the rate of 50% but the same should be 40% in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270**.

The Tribunal has assessed income of the deceased on the basis of latest income tax return filed by the deceased Ex.P2. As has been rightly argued by counsel for the insurance company, claimants shall be entitled to increase in income for future prospects at the rate of 40%. As net income of the deceased is not taxable, no deduction for payment of income tax is to be made. In this context, reference can be made to judgment of Hon'ble the Supreme Court in **Pranay Sethi and others case** (supra). In this manner, loss of dependency comes to Rs.22,96,000/- [Rs.24,60,000/- (Rs.1,64,000/- x 15) + Rs.9,84,000/- (40% towards future prospects) – Rs.11,48,000/- (1/3rd deduction towards personal expenses)]

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitled to Rs.30,000/- detailed herein:-

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

In view of the above, total compensation comes to Rs.23,26,000/- and additional amount is Rs.5,74,000/- (Rs.23,26,000 - Rs.17,52,000/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization to children of deceased in equal proportion. The amount falling to their share shall be invested in a Fixed Deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

FAO No.9340 of 2014

With regard to death of Savita Rani @ Sunita, the Tribunal has awarded compensation of Rs.8,53,000/- detailed hereunder:-

Monthly value of services of the deceased	Rs.3,000/-
Multiplier	16
Loss of dependency	Rs.5,76,000/-
Funeral expenses	Rs.25,000/-
Loss of estate	Rs.5,000/-
Expenses on medical expenses	Rs.2,47,000/-

Counsel for the claimants has prayed for enhancement of compensation primarily on the ground that value of services of the deceased assessed by the Tribunal is on lower side and needs enhancement. It is argued that with regard to death of one Gurmelo Devi in a motor vehicular accident on 23.11.2012, the Tribunal assessed value of her services at Rs.9,000/- per month and the assessment made by the Tribunal was affirmed by this Court in **United India Assurance Co. Ltd. Vs. Sube Singh, FAO No.218 of 2014, decided on 15.01.2014**. Counsel would further inform that the judgment in the aforesaid FAO came to be affirmed by Hon'ble the Supreme Court in Special Leave Petition filed by United

India Assurance Co. Ltd. It is urged that in view of the decision in **Sube Singh and others case** (supra), value of services of the deceased is liable to be assessed at Rs.9,000/- per month.

Counsel representing the insurance company has supported assessment of compensation by the Tribunal.

The application for compensation has been filed by Karanbir and Sumanpreet, children of deceased Savita @ Sunita who unfortunately lost both their parents in the same accident. As per the post-mortem report, deceased was 35 years old at the time of occurrence. Hon'ble the Supreme Court assessed value of services of a house-maker at the rate of Rs.3,000/- per month in the light of judgment **Lata Wadhwa Vs. State of Bihar, 2001(4) RCR (Civil) 673**, pertaining to an occurrence of 1989. The price index shows upward trend throughout. A house-maker has multifarious duties to perform. Taking into consideration the judgment **Sube Singh and others case** (supra), value of services of the deceased is assessed at Rs.9,000/- per month. The Tribunal has rightly applied multiplier of 16 for computing loss of dependency. In this manner, loss of dependency comes to Rs.17,28,000/- (Rs.9,000/- x 12 x 16).

Under conventional heads, the Tribunal has allowed an amount of Rs.30,000/- detailed hereinbefore. However, claimants shall be entitled to Rs.15,000/- for funeral expenses only. Compensation awarded by the Tribunal in regard to expenses on medical treatment of the deceased to the tune of Rs.2,47,000/- is ordered to be affirmed.

In view of the above, total compensation comes to Rs.19,90,000/- and the additional amount is Rs.11,37,000/- (Rs.19,90,000/- - Rs.853,000/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization to children of the deceased in equal proportion, to be invested in Fixed Deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

FEBRUARY 28, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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