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

**Date of decision: 6.2.2018**

1. **FAO No.7820 of 2015(O&M)**

National Insurance Company Ltd. …..Appellant

VERSUS

Sonu and another .....Respondents

Present: Mr. R.C. Kapoor, Advocate for the appellants.

Mr. Govind Rana, Advocate for
Mr. Kamaljeet Dahiya, Advocate for respondent No.1.

Mr. Sunny Dhull, Advocate for
Mr. Manoj Kumar Taya, Advocate for respondent No.2.

*****

2. **FAO No.7821 of 2015(O&M)**

**XOBJC-36-CII of 2017**

National Insurance Company Ltd. …..Appellant

VERSUS

Maya Devi and another .....Respondents

Present: Mr. R.C. Kapoor, Advocate for the appellant.

Mr. Govind Rana, Advocate for
Mr. Kamaljeet Dahiya, Advocate for respondent No.1/cross objector.

Mr. Sunny Dhull, Advocate for
Mr. Manoj Kumar Taya, Advocate for respondent No.2.

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

**REKHA MITTAL, J. (Oral)**

This order shall dispose of FAO Nos.7820, 7821 of 2015 and cross objections No.36-CII of 2017 as these have emerged out of the same award dated 08.05.2015 passed by the Motor Accidents Claims Tribunal, Karnal (in short 'the Tribunal') whereby compensation has been awarded on account of injuries sustained by Sonu and death of Naveen aged 22 years in a motor vehicular accident that took place on 15.06.2013.

**FAO No.7820 of 2015**

Counsel for the appellant-Insurance Company has submitted that the appeal has been preferred only on the question of insured being guilty of committing breach of terms and conditions of insurance policy for want of valid driving licence with the driver-cum-owner of the offending vehicle. However, it is conceded that controversy raised in the appeal no longer subsists in view of the latest judgment of Hon'ble the Supreme Court in **Mukund Dewangan Vs. Oriental Insurance Co. Ltd. 2017(7) Scale 731** as the vehicle falls within the definition of Light Motor Vehicle and the driver possessed licence to drive Light Motor Vehicle but without any endorsement of 'transport'.

In view of the above, the appeal fails and is accordingly dismissed.

**FAO No.7821 of 2015**

The Tribunal has awarded compensation of Rs.7,18,500/-, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.4,500/- |
| Multiplier | 17 |
| Future prospects | 50% |
| Deduction for personal expenses | 50% |
| Loss of dependency | Rs.7,29,000/- |

(Correct calculation is Rs.6,88,500/-)

| | |
|---|---|
| Loss of love and affection | Rs.20,000/- |
| Funeral expenses | Rs.10,000/- |

Counsel for the Insurance Company would inform that the appeal has been preferred on two counts namely driver of the offending vehicle was not possessing a valid licence as well as quantum of compensation assessed by the Tribunal. So far as the question of driving licence, counsel has fairly conceded that in view of decision in FAO No.7820 of 2015, nothing survives for consideration of this Court.

To assail quantum of compensation, it is argued that future prospects at the rate of 50% is liable to be restricted to 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**.

Counsel representing the claimants/cross objectors would argue that income of the deceased is liable to be enhanced even if he is treated as a casual labour. As the deceased was 22 years old, appropriate multiplier is 18. Adequate compensation may be allowed under conventional heads.

Counsel for the insurance company, in reply, has submitted that multiplier is liable to be applied on the basis of age of the mother in place of age of the deceased.

The occurrence in question took place on 15.06.2013. The deceased was 22 years old at the time of his unfortunate demise. Taking a clue from the minimum wage of an unskilled labour fixed by the State of Haryana and available at the relevant time, income of the deceased is assessed at Rs.5250/- per month. As has been rightly argued by counsel for the insurance company, increase in income for future prospects would be @ 40%. However, multiplier of 18 is admissible in the light of judgments of Hon'ble the Supreme Court **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77, Munna Lal Jain and others versus Vipin Kumar Sharma and others, 2015(3) RCR (Civil) 447** and **Pranay Sethi and others case** (supra). In this manner, loss of dependency comes to Rs.7,93,800/- [Rs.11,34,000/- (Rs.5250 x 12 x 18) + Rs.4,53,600/- (40% future prospects) – Rs.7,93,800/- (50% deduction towards personal expenses).

Compensation awarded by the Tribunal under conventional heads is modified to the effect that claimant shall be entitled to Rs.30,000/- i.e. Rs.15,000/- for expenses on funeral and another Rs.15,000/- for loss of estate.

In view of the above, total compensation comes to Rs.8,23,800/- and the additional amount is Rs.1,05,300/- (Rs.8,23,800/- - Rs.7,18,500/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal and the cross objections are disposed of in the aforesaid terms.

**FEBRUARY 6, 2018** **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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