IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 FAO No.8050 of 2015 (O&M)

Date of decision: 06.09.2018

MAINA AND ANR ... Appellants

Versus

RAJENDER SINGH AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arvind K. Yadav, Advocate for the appellants.

Mr. Gurmail S. Duhan, Advocate for
Mr. Narender Kaajla, Advocate for respondents No.1 and 2.

Mr. Rajesh Verma, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Rajesh Kumar Upadhayay in a motor vehicular accident that took place on 23.07.2012. The Tribunal has awarded compensation of Rs.4,50,000/-.

Counsel for the appellants would urge that the claimants produced on record income tax return of the deceased for the assessment year 2012-13 Ex.P1 and Pan Card Ex.P2 but the Tribunal has refused to rely upon the income tax return for want of examination of a witness from the Income Tax Department to prove the same. He would pray that the claimants may be allowed an opportunity to examine a witness from the Income Tax Department to prove the income tax return, in accordance with law.

Perusal of copy of the income tax return marked as Ex.P1 would reveal that there is reference to gross total income of Rs.1,84,685/- but no details of the income have been given. In the given scenario, it would be in the fitness of things, if the claimants are allowed an opportunity to examine a witness of the Income Tax Department along with relevant records and thereafter assessment of compensation is made afresh.

Counsel for the respondents have got no objection, if the matter is remitted to the Tribunal for assessment of compensation afresh on the basis of materials on record and testimony of witness from the Income Tax Department, to be examined by the claimants and evidence in rebuttal, if any, to be led by the respondents.

In view of the above, the appeal stands disposed of. Findings of the Tribunal on issue No.2 are set aside only qua quantum of compensation payable to the claimants and the matter is remitted to the Tribunal for assessment of compensation afresh in the terms, indicated hereinbefore. Parties through their counsel are directed to appear before the Tribunal on 05.10.2018. In view of the above, applications for condonation of delay are of academic relevance only.

06.09.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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