IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7399 of 2016 (O&M)
Date of decision: 04.07.2018

CHAIRMAN, PEPSU ROAD TRANPSORT CORPORATION, PATIALA AND ANR.

... Appellants

Versus

LALITA LAMBA AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Nitin Kaushal, Advocate and
Mr. Tarun Sharma, Advocate
for the appellants.

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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 16.03.2016 passed by the Motor Accidents Claims Tribunal, Patiala whereby compensation has been allowed on account of death of Ankur Lamba in a motor vehicular accident that took place on 07.02.2015.

The Tribunal has allowed compensation of Rs.20,50,864/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.18,758/-
2. Multiplier	18
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.20,25,864/-
5. Expenses on funeral	Rs.25,000/-

The first submission made by counsel for the appellants is that as gross salary of Rs.18,758/- per month includes incentives given to Sh. Ankur Lamba by EM PEE Motors Limited, income for the purpose of assessing loss of dependency should be taken by excluding the amount of incentives. Another submission made by counsel is that though the claimants examined Sukhwinder Singh from EM PEE Motors Limited but he admitted in his cross-examination that the salary certificate Ex.P1 has not been signed by him, therefore, salary certificate Ex.P1 cannot form the basis for assessing income of the deceased.

Be that as it may, it is undisputed position of the case that Ankur Lamba aged about 22 years was working with M/s EM PEE Motors Limited, authorised dealer of Toyota Motors from 28.06.2013 to 07.02.2015 and was drawing salary of Rs.18,758/- per month. The plea of the appellants to deduct the amount of incentives is misconceived and untenable when examined in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. VS. Indira Srivastava and others, 2008(1) RCR (Civil) 359** and **Manasvi Jain VS. Delhi Transport Corporation, 2014(3) RCR (Civil) 313**.

Sukhwinder Singh, Managar, EM PEE Motors Limited appeared in the witness box and made his statement on the basis of records maintained by the aforesaid concern. The mere fact that the salary certificate has not been signed by Sukhwinder Singh is neither sufficient to discard his testimony with regard to employment of Ankur Lamba nor with regard to salary being paid to the deceased.

Claimants shall be entitled to benefit of increase in income for future prospects @ 40%. The deduction for personal expenses and multiplier adopted by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.28,36,209/- [(Rs.18,758 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.30,000/- i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

Total compensation is Rs.28,66,209/- and the additional amount is Rs.8,15,345/- (28,66,209 - 20,50,864), payable with interest @7.5% per annum from the date of petition till realization to mother of the deceased.

For the foregoing reasons, the appeal stands disposed of in the aforesaid terms. A copy of the judgment be sent to the claimants in order to enable them to recover the additional amount.

04.07.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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