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

FAO No. 2631 of 2019(O&M)

Date of decision: 1.10.2019

Iffco Tokio General Insurance Co. Ltd. …..Appellant

VERSUS

Shalender Kumar and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. A.S. Sidhu, Advocate for the appellant.

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REKHA MITTAL, J.(Oral)

Challenge in the present appeal has been directed against award dated 26.11.2018 passed by the Motor Accidents Claims Tribunal, Karnal (in short 'the Tribunal') whereby compensation has been assessed on account of death of Dalel Singh in a motor vehicular accident that took place on 06.12.2015.

Counsel for the insurance company would inform that appeal has been filed to assail only quantum of compensation assessed by the Tribunal.

The Tribunal awarded Rs.5,64,600/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Addition in income for future prospects	10%
Deduction for personal expenses	1/4th
Multiplier	9
Loss of dependency	Rs.5,34,600/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-

The sole submission made by counsel for the appellant is that claim has been filed by two sons and two daughters of deceased and all of them are married. It is further argued that Balkar Singh – claimant No.2 has deposed that he had been residing separately from his father. Counsel would argue that in the given scenario, deduction for personal expenses should be 50% or at least 1/3rd.

I have gone through statements of Balkar Singh and Sinder Devi claimants, examined in the case. As per testimony of the witnesses, the deceased had been bearing expenses of medical treatment of Shalender Kumar and educational expenses of his grandchildren. He was also meeting household as well as educational expenses in respect of claimant Sinder Devi. There is nothing on record suggestive of the fact that Saroj Rani – claimant No.4 was dependent upon her father. Balkar Singh – claimant had stated that deceased was giving customary gifts to her daughters on various occasions such as Rakshabandhan, Teej, Deepawali etc.. Saroj Rani did not appear in the witness box to say something about dependency upon her father. In the given circumstances, admissible deduction for personal expenses would be 1/3rd. Accordingly, loss of dependency is calculated at Rs.4,75,200/- [Rs.6,48,000/- (Rs.6000/- x 12 x 9) + Rs.64,800/- (10% addition towards future prospects) – Rs. 2,37,600/- (1/3rd deduction towards personal expenses)].

Compensation allowed under conventional heads is correct and affirmed.

In this manner, total compensation is Rs.5,05,200/- and compensation allowed by the Tribunal is reduced to the extent of Rs.59,400/- (Rs.5,64,600/- - Rs.5,05,200/-)

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention that compensation assessed by the Tribunal has been reduced without notice to the claimants. They would be at liberty to file an appropriate application if they have any grievance to express. It is further clarified that in case the claimants file an appeal for enhancement, any observation made for disposing of appeal filed by the insurance company would not cause prejudice to their right.

OCTOBER 1, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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