IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3330 of 2004(O&M)

Date of decision: 15.10.2019

Hazara Singh and another …..Appellants

VERSUS

Inderjit Singh and another .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Navjot Kaur, Advocate for
Mr. Vishal Gupta, Advocate for the appellants.

Mr. Vinod Chaudhary, Advocate for the insurance company.

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REKHA MITTAL, J.(Oral)

CM No.19910-CII of 2019

Prayer in this application is for early hearing of the case.

On joint request made by counsel for the parties, FAO No.3330 of 2004 is taken on board today itself for disposing of the appeal.

The application stands disposed of accordingly.

FAO No.3330 of 2004

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Rupnagar (in short 'the Tribunal') on account of death of Raghbir Singh in a motor vehicular accident that took place on 12.05.2001.

The Tribunal awarded Rs.2,74,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.2100/-
Deduction for personal expenses	1/3rd

Multiplier	16
Loss of dependency	Rs.2,68,800/-
Funeral expenses	Rs.2200/-
Reimbursement of medical expenses	Rs.3000/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is on lower side and needs enhancement on the basis of salary certificate Ex.P2. It is further argued that claimants may be allowed addition in income for future prospects, appropriate multiplier on the basis of age of the deceased and adequate compensation under conventional heads including loss of consortium in the light of judgment of Hon'ble the Supreme Court **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333**.

Counsel representing the insurance company, on the other hand, would argue that as the deceased was bachelor and claimants are his parents, deduction for personal expenses should be 50%. Another submission made by counsel is that since the accident pertains to the year 2001, claimants are not entitle to seek benefit of addition in income for future prospects by relying upon judgments rendered by Hon'ble the Supreme Court recently.

I have heard counsel for the parties, perused the paper-book particularly the award impugned.

The plea of the claimants is that deceased was working as an Electrician in Hotel Cassowary, Dera Bassi at salary of Rs.5000/- per month. They produced salary certificate Ex.P2. They did not examine a representative of the said hotel to prove avocation and income of the deceased. In the given scenario, the Tribunal has rightly refused to rely upon certificate Ex.P2. The claimants did not produce any documentary evidence with regard to technical qualification acquired by the deceased to work as an electrician. Their oral plea with regard to avocation of the deceased does not find corroboration from an independent source. That being so, claimants have failed to adduce sufficient much less cogent evidence to establish that deceased was an electrician much less working at salary of Rs.5000/- per month. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, there is no justification for enhancing monthly income of the deceased.

The deceased was 25 years old, therefore, admissible multiplier is 18. The claim has been preferred by unfortunate parents of the deceased who was unmarried, as such deduction for personal expenses would be 50%.

The deceased was 25 years old. He would not have stagnated at income of Rs.2100/- per month had he remained alive. There is no such observation made by Hon'ble the Supreme Court while dealing with the question of addition in income for future prospects that the said benefit would be available only if the accident had taken place after a particular point of time. That being so, contention raised by counsel for the insurance company that benefit of addition in income for future prospects cannot be extended is not meritorious and accordingly rejected. Claimants shall be entitle to addition in income for future prospects at the rate of 40%. Hence, loss of dependency is calculated at Rs.3,17,520/- [Rs.4,53,600/- (Rs.2100/- x 12 x 18) + Rs.1,81,440/- (40% addition towards future prospects) – Rs.3,17,520/- (50% deduction towards personal expenses)].

A Constitution Bench of Hon'ble the Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** has laid down a settled proposition that in case of death of a married person who has left behind his spouse, compensation under conventional heads would be Rs.70,000/- and in case of unmarried person, it would be Rs.30,000/-. A three-Judge Bench in **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034** decided subsequent to decision in **Nanu Ram @ Chuhru Ram and others case** (supra) has reiterated the compensation allowed in **Pranay Sethi and others case** (supra). In this view of the matter, the appellants cannot press for grant of compensation qua loss of consortium by relying upon judgment in **Nanu Ram @ Chuhru Ram and others case** (supra). As such, claimants shall be entitle to Rs.30,000/- under conventional heads i.e. Rs.15,000/- for loss to estate and Rs.15,000/- for funeral expenses.

Reimbursement of medical expenses allowed by the Tribunal is affirmed.

In view of the above, total compensation is Rs.3,50,520/- and additional amount is Rs.76,520/- (Rs.3,50,520/- - Rs.2,74,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

OCTOBER 15, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no